BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of		
Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan	)))))))	WC Docket No. 03-16

JOINT SUPPLEMENTAL DECLARATION OF KAREN W. MOORE AND TIMOTHY CONNOLLY ON BEHALF OF AT&T CORP.

March 26, 2003

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**JOINT SUPPLEMENTAL DECLARATION OF
KAREN W. MOORE AND TIMOTHY CONNOLLY
ON BEHALF OF AT&T CORP.**

1. My name is Karen W. Moore. I am the same Karen W. Moore who submitted a declaration in this proceeding with AT&T's initial comments. My educational background and work experience are described in my initial declaration.

2. My name is Timothy M. Connolly. I am the same Timothy M. Connolly who submitted a declaration in this proceeding with AT&T's initial comments. My educational background and work experience are described in my initial declaration.

I. PURPOSE AND SUMMARY

3. The purpose of this supplemental reply declaration is to respond to certain performance measurement issues that SBC has raised in its reply comments and *ex parte* submissions. Part II explains that the accuracy of SBC's performance data is critical for three

reasons. First, this Commission has consistently held that the performance data on which an applicant relies for Section 271 approval must be accurate, complete and reliable. Second, because performance data serve as the point of departure from which performance remedy payments are calculated, inaccuracies in performance results doom to failure the purported self-executing mechanisms in a performance remedy plan. Third, metrics process improvements can only be effective if the underlying performance results (which serve as the basis for process improvements) are accurate.

4. Part III explains that SBC's performance measures are unreliable because they do not capture actual performance. Part III shows that the performance data that SBC initially included in its winback performance under PM MI 13 are unreliable because SBC excluded SBC winbacks from its analysis. Part III also explains that SBC's restated line loss notice data included in its recent *ex partes* – which purportedly provide a comprehensive analysis of its performance in providing timely, accurate, and complete LLNs (even when SBC winbacks are included) – should be accorded no weight because they are, *inter alia,* unverifiable, hopelessly confusing, lacking in detail, based upon questionable sources, and inconsistent with SBC's previous statements.

5. Indeed, SBC's tables are bereft of any evidence demonstrating that the defects that AT&T has found in SBC's LLN data during the reconciliation process (*i.e.* missing LLNs attributable to CLEC-to-CLEC migrations and LLNs that are otherwise highly irregular) are reflected in its calculations. Furthermore, SBC's tables are of no probative value because they reflect "apples to oranges" comparisons of its performance under the current PM MI 13 and new PM MI 13 which are governed by different business rules. Additionally, although SBC

makes sweeping statements regarding parity in the LLN process, conspicuously absent from SBC's tables are the comparative retail data that purportedly undergird these blanket assertions. More fundamentally, SBC's own tables show that, month after month, SBC generates thousands of LLNs that are untimely, inaccurate or incomplete. Although SBC attempts to diminish the significance of these problems, the reality is that these thousands of defective LLNs have adversely impacted CLECs over an extended period of time and reflect systemic problems in SBC's LLN systems that must be corrected before, rather than after, Section 271 approval.

6. Part III also explains that SBC's reported results on PM 17 are highly questionable and should be eyed with suspicion given SBC's assertion that its purported results capture all of the wholesale billing problems that have arisen in connection with its conversion of UNE-P billing from the ACIS to the CABS billing system. Indeed, if, as SBC claims, its PM 17 results capture its abysmal performance in this area, its results should be far worse than reported.

7. Part III also explains that SBC cannot legitimately rely on its PM 4 performance results because the measure does not capture outages that block only certain pre-ordering queries and, therefore, understates the degraded service interval. Additionally, the measure fails to capture the disproportionate impact that outages have on individual CLECs such as AT&T.

8. Part IV addresses SBC's arguments that: the completed portions of BearingPoint's PMR 1, 2, and 3 tests confirm the accuracy of SBC's data; and this Commission should ignore BearingPoint's PMR 4 and 5 test results and rely instead upon E&Y's findings.

Part IV explains that BearingPoint's Michigan metrics update issued on March 7, 2003, confirms that its audit is far from complete, and that SBC has failed approximately 31 percent and passed approximately 27.5 percent of the total test criteria. Indeed, the March 7 Metrics Update is littered with a veritable plethora of deficiencies in SBC's performance monitoring and reporting processes. Given these findings, SBC cannot legitimately contend that certain completed portions of BearingPoint's audit validate the accuracy of its data. Furthermore, SBC's request that this Commission jettison BearingPoint's PMR 4 and 5 test and substitute therefor E&Y's findings is nothing more than a desperate effort on the part of SBC to escape from BearingPoint's findings which confirm that SBC's data are untrustworthy.

9. Part V addresses SBC's arguments that the Commission should bless the E&Y audit, particularly since E&Y used the same testing methodology in Missouri. AT&T explains that, unlike this proceeding which involves the separate BearingPoint audit conducted under the direction of the State (which has found innumerable problems in SBC's collection and reporting processes), in the *Missouri 271 Proceeding,* the E&Y audit was not contradicted by another metrics audit that uncovered major deficiencies in SBC's data. Part V also addresses SBC's challenges to AT&T's claims regarding defects in E&Y's testing approach. Part V explains that, notwithstanding SBC's contrary assertions, E&Y did not conduct a comprehensive analysis of SBC's raw data through SBC's systems to assure accuracy in reported results. That section also explains that SBC's own March 17 *ex parte* essentially concedes that E&Y did not conduct testing to assess whether SBC's corrective measures had unintended consequences.

10. Part VI explains that SBC's attempt to draw favorable comparisons between the audit testing in Michigan and testing conducted in Georgia at the time of 271

approval is fundamentally flawed. SBC once again ignores that the *Georgia/Louisiana 271 Proceeding* involved two completed audits in which BellSouth passed over 90 percent of the test criteria.

11. Part VII explains that, in a recently submitted Rebuttal Affidavit , the Staff of the Illinois Commerce Commission ("ICC") once again has repudiated SBC's arguments that its data are reliable. Based upon the same evidence that SBC has presented here, the ICC Staff has reaffirmed that SBC cannot reasonably rely on its performance data for Section 271 approval.

12. Part VIII addresses SBC's rejoinders to AT&T's arguments regarding SBC's lack of commitment to the data reconciliation process. AT&T explains that, despite SBC's assertions to the contrary, SBC has failed to provide raw data in a timely manner and has otherwise conducted itself in such a manner that it is plainly evident that its assertions regarding its commitment to data reconciliation are purely self-serving.

II. THE ACCURACY OF PERFORMANCE DATA IS CRITICAL TO SECTION 271 ANALYSIS, THE EFFICACY OF PENALTY PLANS, AND THE DEVELOPMENT OF PROCESS IMPROVEMENTS.

13. On the basis of the current record, there is no sound basis upon which this Commission can properly conclude that SBC's performance data are accurate, stable and reliable, a fundamental showing in all prior applications approved by this Commission. In this regard, in its prior 271 orders, this Commission has repeatedly stressed the critical importance of properly-defined and implemented performance measures in determining checklist compliance. Thus, for example, in its *Michigan 271 Order*, the Commission stated that "proper performance

measures with which to compare BOC retail and wholesale performance and to measure exclusively wholesale performance are a necessary prerequisite to demonstrating compliance with the Commission's 'nondiscrimination' and 'meaningful opportunity to compete standards.'"[1] Similarly, in its *Connecticut 271 Order*, this Commission stated that "[a]s established in prior Section 271 orders . . . performance measurements provide valuable evidence regarding a BOC's compliance or noncompliance with individual checklist items."[2]

14. This Commission has not only emphasized the importance of performance measures in assessing statutory compliance, but it has also stressed the critical importance of the accuracy of any performance data based upon such measures. In its *Kansas/Oklahoma* 271 Order, this Commission held "[a]s [it] held in prior Section 271 orders, the reliability of reported data is critical: the performance measures must generate results that are meaningful, accurate and reproducible."[3] Similarly, in its *Texas 271 Order*, this Commission once again emphasized that "the reliability of reported data is critical" and that "the credibility of the performance data should be above suspicion."[4]

15. The Commission's repeated findings emphasizing the critical importance of accurate performance data are clearly correct and must and should be applied with undiminished force here. Indeed, if the performance data of a Section 271 applicant are inaccurate, there is no sound basis upon which the Commission can properly conclude that the

[1] *Michigan 271 Order*, ¶ 204.

[2] *Connecticut 271 Order*, Attach. D, ¶ 7.

[3] *Kansas Oklahoma 271 Order,* ¶ 278.

[4] *Texas 271 Order,* ¶¶ 428-429.

applicant's commercial data prove statutory compliance. Additionally, inaccuracies in performance data can render it impossible for regulatory agencies and the CLECs to gauge properly the performance of the BOC in fulfilling its statutory obligations.

16. Furthermore, this Commission has recognized that when a BOC relies upon a performance enforcement plan to demonstrate that it will satisfy its statutory obligations after Section 271 approval, there must be reasonable assurance that the BOC's performance data are accurate.[5] Because performance data serve as the springboard for performance remedy payments, inaccuracies in the reported data will necessarily infect and thwart the efficacy of the purported self-executing remedial structure of a performance enforcement plan.[6] Thus, before SBC can rely on its own self-reported data to determine checklist compliance, it must demonstrate that its performance measures are clearly defined and accurately measure performance, and that its performance data capture the actual performance they are intended to measure. SBC has not satisfied and cannot satisfy this requirement.

17. Additionally, the accuracy of reported data is essential in another important respect. Operationally, AT&T identifies performance weaknesses in several different ways. First, business units report to the LSAM team that interfaces with SBC the particular performance defects that they can readily identify. Second, the business units rely on LSAM to

[5] *See New York 271 Order*, ¶ 433.

[6] *See* Phase II Rebuttal Affidavit of Nancy B. Weber on behalf of Illinois Commerce Commission, Docket No. 01-0662, dated March 12, 2003 (hereinafter referred to as "ICC Staff Rebuttal Aff."), ¶ 118 (noting that "[t]he efficacy of these [performance enforcement] plans is seriously undermined if the inputs are unreliable.").

review the ILEC's reported performance data to identify weak performance areas so that the business unit can investigate and ensure that the problem reflected in the measure has been appropriately identified and escalated by field personnel. Obviously, if the performance data are inaccurate, this latter avenue of issue identification is entirely lost. Second, as in the area of access management, where ILEC self-reported DMOQs are used to evaluate RBOC performance, one of the goals of accurate performance measure reporting is to use the results as a baseline for process improvements without the need to reconcile two different sets of raw data. However, process improvements can only be effected if it can safely be assumed that the BOC's self-reported data are accurate.

18. A recent example illustrates the problems with relying on SBC's reported data. As AT&T has previously explained in its March 19 *ex parte* on line splitting, SBC continues to misuse the jeopardy notice process by issuing jeopardy notices for errors in ordering fields that should have been detected by up-front edits.[7] SBC admits as much when it promises that "[c]hanges to operational processes are in progress to avoid the use of jeopardy codes for non-jeopardy communications with the CLEC regarding their orders, which is degrading performance."[8] What SBC fails to explain, however, is that its misuse of the jeopardy process invariably results in missed due dates that are not detected by the relevant performance measures. If SBC had rejected these orders, AT&T would have been able to correct them before

[7] *Ex Parte* Letter from Alan C. Geolot to Marlene H. Dortch, dated March 19, 2003, attaching DeYoung/Connolly Suppl. Decl., ¶ 23, n. 10.

[8] *Ex Parte* Letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 17, 2003 ("SBC March 17 *ex parte*"), Attach. A at 12.

providing a confirmed due date to the end user. SBC has made commitments in previous proceedings to eliminate this practice of "post FOC" rejects.

19. As with any other performance initiative that AT&T must address with SBC, AT&T must be able to quickly quantify the problem so that root cause analysis and corrective action can be undertaken. Reliance on the accuracy of SBC's self-reported raw data (in this case PM MI 2 and the missed due date measures), rather than time-consuming reconciliation of internal versus self-reported data, is critical for the effective resolution of such problems.

III. SBC'S PERFORMANCE MEASURES DO NOT CAPTURE ACTUAL PERFORMANCE.

20. As AT&T has previously explained, performance measurements are of no utility unless they accurately measure the performance they are intended to measure.[9] AT&T also has explained that SBC cannot legitimately rely on its performance results for any number of measures because the metrics, as defined or as implemented by SBC, do not reflect SBC's actual performance. In its reply comments and *ex partes*, SBC contends that this Commission can safely rely upon its reported results, including its results on performance measures PM MI 13, PM 17, and PM 4. SBC is wrong on all counts.

21. **PM MI 13**. In support of its Application, SBC initially submitted its performance results for PM MI 13.[10] As AT&T explained in its reply comments, because SBC

[9] Moore/Connolly Decl., ¶ 22; Moore/Connolly/Norris Reply Decl., ¶ 117.

[10] *See, e.g.,* SBC's Hit or Miss Report.

has excluded SBC winbacks – a wholesale category of orders from its performance results – its performance data on PM MI 13 are incomplete and cannot properly be relied upon in this proceeding. In its reply comments, AT&T also pointed out that February 25, 2003, was the first time that SBC explicitly disclosed to AT&T that its performance results for PM MI 13 exclude all SBC winbacks.[11] In fact, in proceedings before the Michigan Public Service Commission ("MPSC"), SBC never highlighted its practice of excluding all SBC winbacks from its PM MI 13 results and left the clear impression that its performance results for PM MI 13 captured such winbacks.[12]

22. In an attempt to deflect AT&T's arguments regarding its failure to capture winbacks in its PM MI 13 results, SBC, on reply, states that, in the recently completed six-month review, the parties agreed to modify PM MI 13 to "address concerns that AT&T expressed to SBC," and that the new PM MI 13 will capture SBC winbacks by eliminating the service order completion notice as the point from which the starting time for the measure is calculated:

> In the recent completed second six- month review, SBC Midwest and participating CLECs agreed upon modifications to PM MI 13 that will address concerns that AT&T expressed to SBC. PM MI 13 will measure from the completion of the last service order required to provision the LSR submitted by the "winning" carrier to the sending of the line loss notification, and determine if that duration is less than one system processing day.
>
> If a customer chooses to switch service from a CLEC to Michigan Bell, no EDI service completion notice is sent to Michigan Bell's retail organization and hence

[11] Moore/Connolly/Norris Joint Reply Decl., ¶ 113.

[12] Moore/Connolly/Norris Decl., ¶¶ 110-116. AT&T was not the only carrier that was misled regarding the inclusion of SBC winbacks in PM MI 13. At the collaborative session held on March 4-5, 2003, and in a later teleconference call on March 12, 2003, WorldCom expressed surprise that the current version of PM MI 13 does not capture SBC winbacks.

> there is no starting time to use in determining whether the CLEC received the LLN within one hour. Although such LLNs have been sent to CLECs, these line loss notifications could not be captured in the current version of PM MI 13 because of the absence of a start time. The modification to the business rule for PM MI 13 eliminates the use of the transmission of a service order completion notice as a starting time.[13]

23. Similarly, in its March 14 *ex parte* submission, SBC contends that the issue of the inclusion of SBC winbacks in PM MI 13 "has been cared for in the implementation of the new PMs MI 13 and MI 13.1"[14] SBC's assertions are plainly erroneous.

24. Notwithstanding SBC's statements to the contrary, the modification of PM MI 13 to include SBC winbacks was *never* discussed during the six-month review. Relatedly, in her reply testimony filed on March 12, 2003, Nancy Weber, Project Manager for the independent third party review of SBC Illinois' Operation Support Systems ("OSS") for the Telecommunications Division of the Illinois Commerce Commission, also has confirmed that the inclusion of SBC winbacks was never discussed during the six-month review, stating:

> It is my understanding at this point in time the majority of lost CLEC customers are due to the SBC Illinois winback scenario. The deficiency of performance [measure] MI 13 was not discussed during the last six-month review nor was it discussed during Phase I of this proceeding. Therefore, I am not clear whether this shortcoming will also be reflected in the modified performance measure MI 13 and the new performance MI 13.1 when implemented on April 20, 2003.[15]

25. Moreover, during the Michigan collaborative proceedings on March 12, 2003, SBC essentially admitted that the documented business rule for the new PM MI 13 agreed

[13] Ehr Reply Aff., ¶¶ 142-143.

[14] *Ex Parte* Letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 14, 2003 ("SBC March 14 *ex parte*"), Attach. A at 8.

[15] ICC Staff Rebuttal Aff., ¶ 12.

upon during the six-month review would allow SBC to continue to exclude winbacks. SBC also agreed to change the business rule to specifically include winbacks. In that connection, SBC all but admitted that, if an independent third party (*i.e.* auditor) reviewed its performance under the new PM MI 13, the business rules could be interpreted to exclude SBC winbacks from performance results. Thus, SBC is simply wrong when it asserts that the inclusion of SBC winbacks was discussed during the six-month review, and that the new PM MI 13 that resulted from that process was designed to and does capture SBC winbacks.

26. Curiously, however, after SBC conceded on March 12, 2003 that the new PM MI 13 would not capture SBC winbacks under a literal interpretation of the business rule, AT&T subsequently learned that SBC informed the MPSC staff that the business rules for the new PM MI 13 would capture SBC winbacks because: (1) the business rules state that, "[t]his includes all product/ordering scenarios for which loss notifications are to be sent according to the information documented on the CLEC Online Website;" and (2) the CLEC Online Website shows that one of the "product/ordering scenarios for which loss notifications are to be sent" is an SBC winback order. Although SBC's new position was and is revisionist history since the issue of winbacks was never discussed during the six-month review, SBC has now proposed to modify the business rules to read as follows: "This measure includes all product/ordering scenarios for which loss notifications are to be sent according to the information documented on the CLEC Online Website, *including retail winbacks*." The emphasized language is the language that SBC now proposes to include to "clarify" that winbacks are not to be excluded.

27. During a conference call on March 19, 2003, in which SBC, the MPSC staff, AT&T and other CLECs participated, AT&T stated that, although it was not necessarily

objecting to SBC's proposed revisions, given the history leading to SBC's proposed revisions to PM MI 13 to include winbacks, it needed additional evidence that SBC's proposed revisions would assure that SBC would capture winbacks in its performance results. In that connection, AT&T requested that SBC provide the Data Flow Diagrams ("DFDs") and Data Element Maps ("DEMs") showing that the new structure of SBC's performance measurement system would, in fact, capture SBC winbacks. In response, SBC stated that, because the new rule does not take effect until March results, to be reported in April, the DFDs and DEMs have not yet been modified to identify the incorporation of SBC winbacks in reported results. SBC could not make these DFDs and DEMs available, even in draft:

> Those documents *are not completed at this time*, as they are not required for the development and implementation of the new PMs MI 13 and MI 13.1. They will be updated (for PM MI 13) and created new (for PM MI 13.1) subsequent to the implementation of the new PMs on April 20, 2003.[16]

These admissions by SBC are nothing short of remarkable and underscore the frailties and inherent defects in SBC's performance monitoring and reporting process.

28. As SBC has conceded, the performance measurement data collection and monitoring process is an "inherently complex and iterative" process.[17] Similarly, SBC has emphasized "that the LLN process is a complex one that must be managed on a daily basis."[18] Given these complexities, complete and accurate documentation which properly reflects the data

[16] Electronic message from Jim Ehr sent on March 21, 2003, attached as Attachment 1 (emphasis added).

[17] Ehr Reply Aff., ¶ 48.

[18] SBC March 14 e*x parte*, Attach. A at 5., n.6.

flows for the elements used in the calculation of performance results and any revisions to performance measurement systems is a critical component of that process.[19]

29. Data Element Maps and Data Flow Diagrams are key forms of documentation that are essential in developing and implementing changes to performance measures. Data Flow Diagrams are graphical depictions showing how data flow between processes in a system and serve as the basis for structured analysis in software engineering. The intended goal of data flow diagramming is to develop a graphical model that bridges the gap between users and systems developers by providing a logical, understandable and comprehensive representation of system processes. DFDs and DEMs which are inaccurate or incomplete and which are used by system programmers can spawn errors in the data collection and reporting process. Since DFDs and DEMs serve as the blueprints for developing and implementing changes to performance measures, SBC's decision to prepare this documentation after implementation of the new PMs MI 13 and 13.1 is tantamount to a builder constructing a building before the architectural plans have been developed.

30. Relatedly, during its testing, BearingPoint opened Exception 188, finding that SBC's technical documentation is incomplete and inaccurate. As AT&T has explained in its reply comments and as explained in more detail below, BearingPoint found that SBC's data flow diagrams and data element maps are deficient for 42 performance measurements, including the current PM MI 13. In describing the impact of these deficiencies, BearingPoint stated that, "[a]ccurate documentation, which describes the flow of performance measurement data through

[19] *See* Ehr Reply Aff., ¶ 46.

SBC Ameritech's systems, is necessary to maintain consistency in the results process and to enable effective management of changes to the data flows."[20]

31. Similarly, BearingPoint found in Exception 187 that SBC's calculation logic is incomplete or inaccurate for any number of measures, including PM MI 13. The lack of proper controls in the development and introduction of changes to performance measures can contribute to the documentation deficiencies identified in Exceptions 187 and 188. SBC's startling admission that it plans to prepare the required DFDs and DEMs for the new PMs MI 13 and MI 13.1 only after their implementation underscores the continued lack of controls in and the inherent unreliability of SBC's performance monitoring and reporting processes. Moreover, because BearingPoint has already found that SBC's DFDs and DEMs for the current PM MI 13 are inaccurate, SBC's decision to exacerbate these deficiencies by failing to prepare its documentation before implementation of the new PMs MI 13 and MI 13.1 illustrates SBC's lack of commitment to accuracy in performance reporting.

32. SBC's decision to prepare its DEMs and DFDs for new PMs MI 13 and MI 13.1 after implementation is also troubling because BearingPoint's audit does not involve an examination of SBC's implementation of these new measures to determine SBC's compliance with the business rules. Thus, CLECs will not be able to assess, even at a high level, whether SBC has, at the very least, developed the correct source systems for performance data generated for new PMs MI 13 and MI 13.1.

[20] BearingPoint Exception 188, dated February 18, 2003 at 2.

33. Moreover, SBC's shocking disclosure that it plans to implement new PMs MI 13 and MI 13.1 before it has developed the guiding data flow diagrams and data element maps is disturbing in another important respect. During testing, BearingPoint opened Exception 19, finding that SBC's "data retention policies regarding source data do not enable thorough and complete audits to be conducted or facilitate the resolution of disputes which may arise regarding the correct reporting of performance measurement results."[21] Furthermore, BearingPoint also opened Exception 20, finding that SBC had inadequate controls and procedures for calculating and reporting performance results.[22] In addressing the deficiencies in SBC's performance which were the subject of Exceptions 19 and 20, SBC and BearingPoint agreed upon a Performance Measurement Documentation Requirements template that would reflect the manner in which SBC would document each of its performance measures.[23] This template, a result of negotiations between SBC and BearingPoint, provides the agreed-upon form, format and content for documenting each performance measure. This template shows that the Data Flow Diagram is the second tier of documentation for each performance measure, second only to the business rules, and that Measurement Data Element Mapping is the third tier of documentation required for each performance measure. In April 2002, SBC represented that it would develop its performance documentation in compliance with this template.

34. Thus, SBC's decision to implement new PMs MI 13 and MI 13.1 without revised DFDs and DEMs is contrary to its agreement with BearingPoint. Moreover, SBC's ill-

[21] BearingPoint Exception 19, dated November 29, 2001. This exception is now closed.

[22] BearingPoint Exception 20, dated November 30, 2001. This exception is now closed.

[23] SBC Performance Measurement Documentation (SBC) – SBC Ameritech Performance Measurement

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conceived decision necessarily means that SBC's performance results for these new measures will be generated without basic forms of documentation which are absolutely essential in assuring the proper collection and reporting of performance results.

35. **SBC's Restated PM MI 13 Results.** Equally flawed is SBC's assertion that its restated results on LLN performance which are reflected in several recently filed *ex partes* show that its "performance in delivering timely and accurate LLNs is strong," even when SBC winbacks are included in its performance results.[24] In an effort to lend color to this assertion, SBC, in its March 14 *ex parte,* includes: (1) Table 1 which purportedly depicts SBC's performance in providing timely and accurate LLNs for all CLECs in the five-state SBC Midwest region between September 2002 and January 2003; and (2) Table 2 which purportedly depicts SBC's performance if the new PM MI 13 had been in effect between November 2002 through January 2003.

36. In its March 20 *ex parte* submission,[25] SBC attempts to elucidate with greater clarity the precise performance that Tables 1 and 2 are intended to capture. Additionally, in its March 20 *ex parte* SBC includes a Table 3 which adds September and October 2002 data and reflects other "minor" changes to Table 2. Furthermore, in its March 20 *ex parte*, SBC presents Table 4 which purportedly reflects SBC's performance in delivering accurate LLNs to CLECs between September 2002 and January 2003 (including LLNs provided manually and via

(footnote continued from previous page)
X, Version 1.0, attached as Attachment 2.

[24] *See* SBC March 14 *ex parte*, Attach. A, ¶¶ 13-14, 24.

[25] *Ex Parte* Letter from Geoffrey M. Klineberg to Marlene H. Dortch, dated March 20, 2003 ("SBC
(footnote continued on next page)

fax). However, these tables in SBC's *ex partes* should be accorded no weight because they are hopelessly confusing, unverifiable, lacking in detail, and inconsistent with SBC's previous statements.

37. Table 1 includes the following columns: Column 2 which purports to show the total CLEC LLNs provided; Column 3 which is titled "Inaccurate or Incomplete" LLNs; and Column 4 which purports to show the percentage of "successful" LLNs during the period from September 2002 through January 2003. As a preliminary matter, the title of Column 3 does not square with SBC's explanation of what this column represents. Because Column 3 is titled "Inaccurate and Incomplete," it is reasonable to assume that this column captures only inaccurate or incomplete CLEC LLNs. However, SBC states elsewhere that Table 1 captures inaccurate, incomplete and *untimely* LLNs.[26]

38. Putting this internal inconsistency to one side, it is far from clear as to what performance Table 1 is intended to capture. In this regard, SBC contends that the "inaccurate and incomplete column of Table 1 includes LLNs for all "CLECs that were inaccurate and/or late as a result of the specific system or process failures identified in the "*ex parte* letter."[27] However, this carefully worded statement is less than illuminating as to

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March 20 *ex parte*").

[26] *See* SBC March 14 *ex parte*, Attach. A at 5.

[27] SBC March 20 *ex parte,* Attach. at 1, ¶ 2.

whether Table 1 captures all inaccurate, incomplete, and untimely LLNs -- including LLNs that were generated, but were never sent.[28]

39. In addition, SBC advised AT&T that the data in Column 3 are derived from anecdotal information, *i.e.* LLNs that they noticed CLECs about or that CLECs put on the record. However, such anecdotal evidence is not and cannot be deemed a suitable surrogate for an empirical analysis of all LLNs that would identify all untimely or inaccurate LLNs, including LLNs that were generated, but not sent. In an effort to show that it conducted such an empirical analysis, SBC contends that this Commission should find solace that "SBC also included LLNs that were handled as part of the 'safety net' process, which was established for the purpose of identifying and correcting LLN error conditions."[29] SBC's touted "safety-net process" is a reference to the cross-functional team that SBC has established to identify LLN errors. However, SBC's attempt to seek refuge in this "safety net process" is unavailing.

40. As explained in the DeYoung/Willard Supplemental Declaration, on March 6, 2003, SBC notified CLECs in an Accessible Letter that, as a result of an investigation prompted by a report by a CLEC, it discovered that LLNs were issued on lines that the CLECs did not lose. Because SBC only became aware of these problems following a report by a CLEC, it is readily apparent that SBC's "safety net process" is ineffective. Relatedly, in the Illinois 271 proceeding, SBC, consistent with its arguments here, heralded its LLN performance and insisted

[28] Given the size of the difference between the denominators in Table 1 and Tables 2 and 3, it is also unlikely that the sole reason for the difference is that Tables 2 and 3 do not include manual LLNs, while Table 1 does. A comparison of the raw data for the denominators of these tables might reveal additional missing LLNs not accounted for in SBC's analysis. However, AT&T does not have the raw data with which to make that comparison.

that its cross-functional team ensures that errors made by service representatives during the LLN process are identified and corrected. However, the ICC Staff pointed out that, because recent LLN problems went undetected by the cross-functional team, the effectiveness of that team to detect and correct LLN errors is questionable, stating:

> No further commitments have been made by the company in this proceeding to make me believe line loss notification problems will not occur in the future. Indeed, to the contrary, Mr. Cottrell states that the two line loss notifier delivery incidents it is aware of that occurred in the last three months were traceable to changes being performed at the request of CLECs and that they were rectified shortly after the were brought to the attention of the company. Cottrell Reply Affidavit, ¶28. This statement is troubling for two reasons. First the company places blame for the incident on the part of the CLEC but in reality it was SBC Illinois who caused the errors. Second, the issues were not proactively identified by SBC Illinois. It appears SBC was only aware of the issues after they were brought to its attention by the affected CLEC. Therefore as it turns out, having the cross functional team in place does not provide the Commission with as much reassurance that the errors and issues are being caught and corrected by SBC Illinois when line loss incidents occur as I originally thought.[30]

For these same reasons, no solace can or should be taken that SBC's touted "safety-net process" has detected all LLN problems. As a consequence, SBC's restated results should be viewed with skepticism.

41. Although SBC contends that Table 1 purports to depict its performance in providing "timely" LLNs, the methodology that SBC used to assess timeliness remains unclear.

(footnote continued from previous page)

[29] SBC March 20 *ex parte*, Attach. at 1 (footnote omitted).

[30] Phase II ICC Staff Rebuttal Aff., ¶ 10.

SBC contends that Table 1 includes LLNs that "were reported in PM MI 13 or would be reported in the new PM MI 13.[31] SBC's explanation is utterly baffling. The current PM MI 13 and new PM MI 13 are governed by different business rules. SBC's analysis glaringly omits any discussion as to whether, in calculating the results in Table 1, SBC considered an LLN to be untimely because it was sent one hour after the SOC is created (*i.e.* the current PM MI 13), 24 hours after work completion (new PM MI 13) or an intersection of both. It is also unclear whether SBC used the 95 percent benchmark under the current PM MI 13, or the 97 percent benchmark under the new PM MI 13. Because of these gaps in SBC's analysis, the data that SBC has presented have no probative value.

42. Additionally, SBC's Table 1 (as well as SBC's other LLN tables) is based on CLEC aggregate data which are region-wide, rather than Michigan-specific. Notably, when AT&T recently examined SBC's raw data for Tables 1 and 2, it discovered that 25 percent of the state indicators were missing from the raw data.[32] When AT&T pointed out this defect in the data, SBC stated that it would take days to rerun the data with these indicators. However, the exclusion of the state indicators from SBC's raw data calls into question the reliability of SBC's Michigan-specific data reported for PM MI 13.

43. Table 2 purportedly captures SBC's performance if SBC winbacks were included in its reported results under the new PM MI 13. The performance data that SBC

[31] SBC March 14 *ex parte*, Attach. A at 5, n. 6.

[32] Electronic message from Karen Moore to Ann Wescott, dated March 18, 2003, attached as Attachment 3.

initially included in its Application for PM MI 13 are based upon the current business rules governing PM MI 13 which require the transmission of an LLN within one hour of SOC creation. However, SBC's results in Table 2 are based upon the new business rules which go into effect with March results which require the transmission of an LLN within one processing day of work completion. In addition, the current PM MI 13 rule is based upon a 95 percent benchmark, while the new PM MI 13 is based upon a 97 percent benchmark. Thus, Table 2 provides no useful information regarding what SBC's line loss notification timeliness performance would have been during the relevant period under the current business rule governing PM MI 13 if SBC winbacks were included in its performance results.

44. Furthermore, SBC's *ex parte* submission provides no information that would suggest that the errors that AT&T uncovered in SBC's PM MI 13 data are reflected in its calculations. Thus, for example, when AT&T and SBC participated in data reconciliation discussions, SBC stated that 90 percent of AT&T's LLNs which were missing from SBC's reported results involved SBC winbacks, and that the remaining 10 percent resulted from difficulties that SBC experienced in capturing certain CLEC-to-CLEC migrations. However, it is less than clear whether Table 2 (or SBC's other tables) actually captures the 10 percent of AT&T's LLNs that involved CLEC-to-CLEC migrations.

45. In its reply comments, AT&T also explained that, when AT&T and SBC engaged in data reconciliation, AT&T noted that some of the winning carriers that were identified in SBC's raw data (such as a notation to an entity called "Wallace," a carrier that

purportedly won customers from AT&T before AT&T entered the market) and AADS and Covad (which do not have voice customers) were nonsensical.[33] Although AT&T asked SBC to explain the basis for the inclusion of these carriers in AT&T's LLN raw data, SBC has yet to respond. Thus, at this juncture, it remains unclear whether these erroneous LLNs are accounted for in Table 2 (or SBC's other tables).

46. According to SBC, Table 3 merely adds September and October 2002 data and captures minor changes to Table 2. Because Table 3 modifies Table 2, the fundamental infirmities in SBC's Table 2 discussed above apply with equal force to Table 3. Additionally, in an attempt to explain why its LLN timeliness rate for September 2002 is an abysmally low 73.78 percent, SBC contends that its "September results were significantly impacted by the LLN outage discussed in the Cottrell/Lawson Joint Reply Aff. ¶¶ 103-104," and that "[a] total of more than 20,000 LLNs were impacted by this incident."[34] However, this assertion contradicts previous statements that SBC has made regarding the total impact of *all* LLN incidents between August 2002 and January 2003. SBC, in its Cottrell/Lawson Reply Affidavit, suggests that AT&T, WorldCom and Z-Tel were the only CLECs that reported LLN problems during this period, and that only 13,250 LLNs were adversely impacted.[35] However, SBC, in its March 20 *ex parte* now asserts that there were more than 20,000 LLNs that were so impacted by *one*

[33] *See* Moore/Connolly/Norris Reply Decl., ¶¶ 120-121.

[34] *See* SBC March 20 *ex parte*, Attach. at 2, n. 4.

[35] Cottrell/Lawson Reply Aff., ¶ 96 (noting that "[e]ven if everything AT&T, WorldCom and Z-Tel state in these comments is true, during the [August 2002-January 2003] period, SBC has failed to properly transmit a total of approximately 13,250 LLNs, meaning that only 1.8 percent of the total number of LLNs were incorrect in the past six months").

incident alone between August 15 and September 11. These internal inconsistencies further illustrate that SBC's data are untrustworthy.

47. In Table 4, SBC purports to show the total number of inaccurate LLNs sent to CLECs from September 2002 through January 2003, including LLNs provided manually and via fax. However, SBC's ill-conceived notion of "accuracy" provides further confirmation that Table 4 does not accurately capture all inaccurate or incomplete LLNs for all CLECs during the relevant period. In this regard, in explaining the manner in which it determined that an LLN is inaccurate, SBC states that "[i]f inaccurate LLNs were provided, but subsequently were corrected and resent to the CLEC . . . [t]hose LLNs are not included as 'inaccurate' in Table 4."[36] SBC states that these LLNs are captured as "untimely" in its Table 3. SBC's methodology in determining LLN accuracy is flawed.

48. There are two dimensions to LLN performance: timeliness and accuracy. Tables 3 and 4 purportedly constitute separate analyses of SBC's performance in these two discrete areas. However, SBC's concept of accuracy is based upon the misguided notion that any inaccurate LLN that is sent to a CLEC (but is later corrected and resent) should not be counted as "inaccurate" LLN for reporting purposes. SBC's approach is demonstrably unsound.

49. If, as SBC contends, the sole purpose of Table 4 is to capture all inaccurate LLNs sent to a CLEC, then Table 4 should capture the first erroneous LLN that is

[36] SBC March 20 *ex parte*, Attach. at 3.

later corrected by SBC. Erroneous LLNs that are later corrected and resent impose tremendous burdens on CLECs. For example, if SBC sends an LLN which appears valid in all respects but contains an erroneous conversion date of March 20, 2002 (instead of March 20, 2003), AT&T will mechanically process the inaccurate LLN. When SBC later sends a corrected LLN (which could take days, weeks or even months), AT&T cannot mechanically process the corrected LLN because its systems would show that AT&T has already received a valid LLN. In these circumstances, the corrected LLN would be sent to an exception file for follow-up investigation by AT&T – an investigation which involves manual processing. A lengthy interval between the receipt of the inaccurate and accurate LLNs, the time required to investigate these problems, and the volume of inaccurate transactions substantially increase the risk of double billing the end-user. Furthermore, since the conversion data in the initial LLN is erroneous, AT&T's systems may process the inaccurate LLN and create an improper bill entry – such as a bill credit – where none is due. Given the serious impact that such inaccurate LLNs can have on a CLEC's operations, and if, as SBC contends, Table 4 is designed to provide a discrete snapshot of its performance in issuing accurate LLNs, SBC cannot properly exclude such inaccurate LLNs from Table 4.

50. Moreover, SBC does not adequately explain in any of its *ex partes* whether the LLN process is at parity with retail. If anything, its *ex partes* raise more questions than they answer on this subject. SBC makes the blanket assertion without explanation or support that 96.70 percent of LLNs were "successfully delivered."[37] SBC nowhere defines what

[37] SBC March 14 *ex parte*, Attach. A at 6.

"successfully delivered" means in this context. However, in its March 20 *ex parte*, SBC admits that the LLNs it provided to its retail unit were inadvertently included in Table 1. This disclosure raises the question as to whether SBC's 96.70 percent figure for its retail performance is also inaccurate. SBC insists that its 96.70 percent retail figure demonstrates that "CLECs and SBC Midwest retail operations receive timely and accurate LLNs on an equivalent basis."[38] However, Tables 1-4 glaringly omit SBC's comparable retail results. In the absence of such comparative detail, SBC cannot legitimately contend that the LLN process for CLECs is at parity with retail.

51. Furthermore, SBC's LLN analysis is incomplete because it fails to depict a comprehensive analysis of its performance. SBC apparently created Table 4 at the Commission's request to show its performance in providing accurate LLNs, including LLNs provided manually and via fax.[39] According to SBC, Table 3 (which focuses exclusively on LLN timeliness) is designed to provide an estimate of SBC's performance if the new PM MI 13 had been in effect during the period from September through January 2003. Putting aside the inherent deficiencies in Tables 3 and 4 which are discussed above, SBC has failed to provide a composite, comprehensive analysis of all inaccurate, incomplete and untimely LLNs that are purportedly reflected in Tables 3 and 4. Thus, the data SBC has presented are of no probative value because they, *inter alia*, fail to provide a complete picture of the impact of SBC's LLN performance on CLECs.

[38] *Id.*

[39] SBC March 20 *ex parte*, Attach. at 2.

52. In its submissions, SBC essentially characterizes its LLN deficiencies as *de minimis*. However, SBC's attempt to diminish the significance of its LLN problems is not well-taken. Even a cursory examination of SBC's flawed tables reveals that thousands of CLEC LLNs are inaccurate, untimely or incomplete month after month. SBC's poor performance, which has affected many CLECs and which has occurred over many months, evidences systemic and serious defects in its LLN systems which must be resolved before, rather than after, Section 271 approval.

53. Given, *inter alia,* the internal inconsistencies and gaps in SBC's LLN tables, the questionable sources from which the data are derived, the lack of comparative retail analysis, the lack of clarity regarding the methodology that SBC used in calculating its results, and the failings of SBC's touted "safety-net process," SBC's restated LLN data in its *ex partes* are wholly unreliable and should be given no weight.[40]

54. **PM 17**. As AT&T has explained, SBC has conceded that problems with its wholesale bills have existed since August 2001 with its conversion of UNE-P billing from the ACIS to the CABS billing system.[41] These problems have included, *inter alia*, SBC's deletion

[40] In its reply comments, AT&T included a table which attempted to capture SBC's performance under PM MI 13 if AT&T's late LLNs involving SBC winbacks had been included in the reported results. However, at the time AT&T filed its reply comments, it could not calculate the percentage of timely LLNs involving SBC winbacks that SBC sent because SBC's raw data did not include such data. After SBC filed its March 14 *ex parte*, AT&T requested the raw data underlying Tables 1 and 2. However, as noted above, SBC's Table 2 is based upon the new, rather than the current PM MI 13. AT&T's analysis in its reply comments was based upon the current PM MI 13. As a consequence, AT&T cannot recalculate its stated results based on the raw data SBC has provided.

[41] *See* AT&T *ex parte* from Alan C. Geolot to Marlene H. Dortch, dated March 21, 2003 at 1.

of thousands of working UNE-P lines from the CABS database; pervasive errors in SBC's wholesale bills generated between August 2001 and December 2002; and SBC's continued usage charges after the line was dropped from AT&T's CABS bill. These problems have been the subject of the "data bash" which AT&T has discussed in its comments and *ex parte*.

55. In explaining the impact of the problems associated with its conversion of UNE-P billing from the ACIS to the CABS billing system on its performance results, SBC states in its March 14 *ex parte* that:

> The only performance measurement that was affected by the inaccuracies in the CABS database was PM 17 – which measures the percent of service orders that post to CABS within the current bill period – and Michigan Bell missed PM 17 in 10 of the past 12 months. However, this dip in performance was anticipated as a result of the manual efforts to post service orders after the completion of the UNE-P conversion. Notably, SBC Midwest paid approximately $3 million in liquidated damages throughout the Midwest region . . . as a result of having missed this measurement during this period. Results from September 2002 through January 2003 have improved appreciably, with Michigan Bell having achieved a success rate between 90% and 96%. No restatement of PM 17 is planned as a result of the reconciliation effort because the impact of the conversion effort has already been captured by this measurement.[42]

56. However, SBC's assertions are puzzling. Indeed, AT&T's understanding is that the accounts affected by the data bash were never posted to CABS. As a result, SBC's assertion that all problems relating to SBC's ACIS to CABS conversion process are somehow reflected in PM 17 is nonsensical. If, as SBC states, all problems relating to this conversion are

[42] SBC March 14 *ex parte*, Attach. B at 3.

captured in PM 17, then its reported results should have been even worse for all months since the CABS conversion in August 2001. Moreover, SBC should be required to show the precise impact of these later postings on its reported results.

57. **PM 4.** As AT&T has explained, SBC's reliance on its PM 4 performance data to rebut AT&T's evidence of excessive outages it has experienced is misplaced. SBC cannot legitimately rely on its reported results for PM 4 (OSS Interface Availability) because the methodology that SBC uses to calculate its performance results is fundamentally flawed. In this regard, PM 4 measures outages by interface, instead of by transaction type. As a consequence, PM 4 understates the outages that CLECs suffer because it fails to capture those instances where only certain pre-ordering queries may become unavailable, as opposed to the entire interface. Furthermore, because downtime that impacts an individual CLEC or a few CLECs is averaged with the downtime experienced by all CLECs, the measurement conceals the disproportionate impact that such outages have on some CLECs, but not others. Indeed, SBC's March 17 *ex parte,* which includes illustrative examples of the operation of PM 4, reveals the fundamental infirmities in this measure.

58. As SBC explains in its March 17 *ex parte*, "ARAF" is the OSS component which purportedly tracks outages experienced by CLECs. Although the data are "collected at the CLEC level," they "are reported at the aggregate level."[43] In its *ex parte*, SBC states that, in February 2003, four CLECs each experienced 80 minutes of downtime (out of 35,280 minutes of scheduled interface availability). However, in calculating its performance, SBC did not report

[43] SBC March 17 *ex parte*, Attach. A at 7.

32,200 minutes of availability, but rather reported 35,278 minutes of availability – a calculation which purportedly captures the interface availability experienced by all CLECs. However, SBC's approach masks and distorts the disproportionate impact that an outage may have on an individual CLEC. Clearly, large CLECs such as AT&T will use the interfaces more than smaller CLECs; and a one-minute outage experienced by AT&T will impact significantly more transactions than those for a smaller CLEC. However, that phenomenon is not captured in SBC's performance results.

59. Similarly, in its March 17 *ex parte*, SBC explains that, because five percent of CLECs were unable to login to WEBLEX for four to five hours during March 2003, it applied an impact factor of five percent in its PM 4 calculations which resulted in a degraded service interval of 13 minutes. However, if the 5 percent of CLECs that experienced outages represented the largest CLECs, a majority of transactions that would have been submitted via WEBLEX would have been impacted. Because SBC averages the downtime experienced by all CLECs, the disproportionate impact that such outages have on individual CLECs is obscured. Indeed, it is theoretically possible that SBC would never fail this measure even if a large CLEC could never access the interface.

60. SBC insists, however, that "the business rules for PM 4 are structured so as to account for the instances about which AT&T complains."[44] SBC contends that if an interface is unavailable to a given CLEC or a small group of CLECs, "the unanticipated system

[44] Ehr Reply Aff., ¶ 146.

outages for just those CLECs are weighted and used to compute the degraded service interval."[45] SBC also contends that if certain pre-ordering queries became unavailable when the interface is used, "the weights assigned to each unresponsive transaction are used" to compute the degraded service interval.[46] However, SBC's determinations of interface availability are purely subjective. The business rules governing PM 4 state that "[d]etermination of the availability factor is governed by SBC/Ameritech's Availability Team on a case-by-case basis."[47] By SBC's own admission, the determination of interface availability is "not an exact science."[48] Given the high level of subjectivity that enters into SBC's determinations of interface availability and the inherent deficiencies in the measure, SBC cannot legitimately contend that its PM 4 performance results completely and accurately capture actual performance.

IV. THE BEARINGPOINT MARCH 7 METRICS UPDATE AND NEW OBSERVATIONS CONTINUE TO SHOW THAT SBC'S DATA ARE INACCURATE.

61. As AT&T has explained, despite SBC's contrary assertions, the BearingPoint audit does not demonstrate that SBC's data are accurate. As AT&T has explained, the BearingPoint audit is far from complete, and BearingPoint's findings to date have uncovered substantial deficiencies in SBC's performance monitoring and reporting processes. In its March 14 *ex parte* submission, SBC contends that, since BearingPoint issued its report of October 30, 2002, substantial progress has been made in its Performance Metrics Review ("PMR") test. SBC

[45] *Id.*

[46] *Id.*

[47] Performance Measurement 4 (OSS Interface Availability).

also asserts that BearingPoint's testing "under PMR-1, PMR-2, and PMR-3 confirms that these aspects of the performance measurement process are accurate and reliable."[49] Additionally, SBC argues that this Commission should not rely upon BearingPoint's test results for the PMR4 (Data Integrity) and PMR5 (Metrics Replication) tests, but rather should rely on the E&Y audit since that audit "constitutes the relevant third-party test."[50] SBC's arguments are demonstrably unsound.

62. Since AT&T filed its reply comments, BearingPoint issued an interim report on March 7, 2003 regarding the status of its PMR test in Michigan. BearingPoint's most recent report shows that: SBC has satisfied 83 test criteria; SBC has failed 93 test criteria; 94 test criteria are indeterminate; and 32 test criteria are not applicable.

63. The following is a brief status of the examination of each component of the PMR test as reported in the March 7 Metrics Update:[51]

Score	PMR1	PMR2	PMR3	PMR3B	PMR4	PMR5	Total
Satisfied	31	3	13	14	2	20	**83**
Not Satisfied	35	0	2	0	14	42	**93**
Indeterminate	60	0	0	0	24	10	**94**
Not Applicable	0	0	0	0	32	0	**32**

(footnote continued from previous page)

[48] SBC March 17 *ex parte*, Attach. A at 7.

[49] SBC March 14 *ex parte*, Attach. C at 5.

[50] *Id.*

[51] BearingPoint March 7 Metrics Update at 5.

64. As the March 7 Metrics Update reveals, SBC has failed approximately 31 percent and passed approximately 27.5 percent of the total test criteria. Thus, at this juncture, SBC has failed to satisfy well over half (62 percent) of the test criteria. Given these findings, the absurdity of SBC's assertion that the completed portions of the BearingPoint test confirm the validity of its data is self-evident.

A. PMR1

65. In its March 14 *ex parte*, SBC contends that the completed portions of BearingPoint's PMR1 test confirm that "these aspects of the performance measurement process are accurate and reliable."[52] In that connection, noting that Exceptions 19 and 20 have been closed, SBC contends that, with the opening of Exceptions 186, 187 and 188, "BearingPoint further narrowed the scope of issues associated with data retention and documentation related questions on technical and flow documents."[53] SBC's allegations are utterly preposterous. These recently opened exceptions reveal significant and wide-ranging problems with SBC's documentation affecting numerous systems of record and performance measures that are important to competitive entry.

66. **PMR1-1**. Test criterion 1 of the PMR1 test is designed to evaluate whether SBC's "[m]etrics data collection and storage processes have complete and up-to-date documentation."[54] However, BearingPoint's March 7 Metrics Update reveals that SBC failed 12

[52] SBC March 14 *ex parte*, Attach. C at 5.

[53] Ehr Reply Aff., ¶ 44.

[54] *See*, *e.g.*, BearingPoint March 7 Metrics Update at 7.

of 18 criteria in this portion of the PMR test.[55] As BearingPoint's report reveals, the "Not Satisfied" findings for the PMR1-1 test are based upon BearingPoint's determination in Exception 188 that SBC's "technical documentation does not consistently present an accurate depiction of the flow of data from the source systems to the performance measurement reporting systems for certain performance measurements."[56]

67. In an effort to diminish the importance of Exception 188, SBC, in its reply comments, contends that Exception 188 has essentially "narrowed the scope of issues associated with . . . documentation related questions on technical and flow documents."[57] Moreover, SBC contends that "[t]he biggest 'hurdles' have been overcome and it is now a matter of filling in any perceived gaps to reduce the remaining documentation issue."[58] SBC's allegations are specious.

68. As AT&T has explained, BearingPoint has found that 12 measurement groups and 42 performance measurements have been affected by inaccuracies in SBC's data flow diagrams and data element maps – essential tools used by SBC analysts and programmers to develop and implement changes to the metrics.[59] The measurements adversely affected by

[55] *Id.* at 7 (PMR1-1-A); 10 (PMR1-1-B); 18 (PMR-1-1-E); 23 (PMR1-1-F); 26 (PMR1-1-G); 31 (PMR1-1-I); 34 (PMR1-1-J); 42 (PMR1-1-M); 45 (PMR1-1-N); 50 (PMR1-1-P); 53 (PMR1-1-Q); 56 (PMR1-1-R).

[56] *See id.*

[57] *See* Ehr Reply Aff., ¶ 44.

[58] *Id.*, ¶ 46.

[59] Moore/Connolly/Norris Decl., ¶ 32.

these defects include PM MI 13 and numerous other measures.[60] Given the breadth of the performance measurement groups and performance measurements that have been adversely impacted by these deficiencies in SBC's documentation, the reality is that the "perceived gaps" in SBC's documentation are not only enormous, but they also demonstrate the frivolity of SBC's claim that BearingPoint has somehow found that its data are accurate and reliable.

69. Additionally, when AT&T filed its opening comments, it explained that, given SBC's announced changes in its data flows, it is premature for SBC to assert that it will satisfy all remaining criteria in the PMR1-1 test in due course. AT&T's analysis regarding SBC's data flow changes was based upon the limited information in BearingPoint's Illinois OSS Evaluation Report dated December 20, 2002 ("BearingPoint Illinois Report"). BearingPoint's Michigan March 7 Metrics Update provides more detailed information regarding completed or planned changes in SBC's data flows for performance measurements – changes that BearingPoint is continuing to evaluate.

70. The March 7 Metrics Update reveals that SBC's data flow changes include the following:

- With respect to the ordering process, "[t]he performance measurements previously reported out of the MOR/Tel system are now reported out of the ICS/DSS system" and "[s]ixteen (16) of the Ordering performance measurements were affected by this change."[61]
- With respect to the Billing Measure Group, there have been and "will be further changes in the data flow for several performance measurements in

[60] *Id.* at n. 37. See Attachment 4 for a list of affected measures.

[61] BearingPoint March 7 Update at 10.

this measure group between October 2002 and May 2003," and "[t]he planned changes will remove certain manual processes used in the data collection for these performance measurements."[62]

- With respect to the Miscellaneous Administrative Measure Group, in February 2003, there were changes in the data for Performance Measures 21.1, 22, 24 and 25, and the "ICS/DSS system replaced the manual processes used to collect and report these performance measurements."[63] "The Genesys Call Management System was implemented in December 2002 to replace some of the functions of the CCMIS system."[64]

- SBC has implemented or plans to implement "changes in the data flows for several performance measurements in this [interconnection trunks] measurement group in the first and second quarters of 2003," and "[t]he ICSI DSS systems will replace some of the manual processes used to collect and report these performance measurements.[65]

- With respect to the Directory Assistance Operator Services Measure Group, in January 2003, "[a] new system replaced some of the manual processes used to collect these performance measurements."[66]

- For the 911 Measure Group, "[t]he ICS/DSS system will replace some of the manual processes used to collect and report these performance measurements"[67] during the first, second and third quarters of 2003.

- With respect to the Poles, Conduits, and Rights of Way Measure Group, during the first quarter of 2003, "[a] new system will replace some of the manual processes used to collect and report these performance measurements," and "the ACT system will be replaced by a new system."[68]

[62] *Id.* at 18, Test Reference PMR1-1-E.

[63] *Id.* at 23, Test Reference PMR1-1-F.

[64] *Id.*

[65] *Id.* at 26. Test Reference PMR1-1-G.

[66] *Id.* at 29, Test Reference PMR1-1-H.

[67] *Id.* at 34, Test Reference PMR1-1-J.

[68] *Id.* at 37, Test Reference PMR1-1-K.

- With respect to the Directory Assistance Group Database Measure Group, in December 2002, "[a] new system replaced some of the manual processes used to collect and report these performance measurements."[69]

- With respect to the NXX Measure Group, in February 2003, "[t]he ICS/DSS system replaced some of the manual processes used to collect and report these performance measurements."[70]

- With respect to the Bona Fide Requests Measure Group, in May 2003, the data flow for Performance Measures 120 and 121 will change because "[t]he ICS/DSS system will replace the manual processes used to collect and report these performance measurements." In addition, "there was a system change in January 2003, in which the current Bona Fide Requests Access Database was replaced by a new SQL Server Database."[71]

- With respect to the Other Measures Group, between July 2002 and January 2003, there were changes in the data for a number of performance measurements as a result of the implementation of the ICS/DSS system to replace certain manual processes used to collect and report these metrics.[72]

71. BearingPoint's March 7 Metrics Update reveals that BearingPoint is still in the process of assessing the impact of these data flow changes on its analysis of the

[69] *Id.* at 42, Test Reference PMR1-1-M.

[70] *Id.* at 47, Test Reference PMR1-1-O.

[71] *Id.* at 50, Test Reference PMR1-1-P. In its reply comments, SBC, pointing to BearingPoint's reported results in Wisconsin, states that, in Wisconsin, BearingPoint found that SBC passed test criterion 1 in the PMR1 test for the Bona Fide Requests Measure Group. Noting that BearingPoint was aware of these changes at the time it issued these findings, SBC contends that "BearingPoint's own Wisconsin test results" for test criterion 1 in the PMR1 test "repudiate AT&T's claim that SBC cannot achieve satisfied test results for" test criterion 1 of the PMR test "when migrating the reporting process to new systems." Ehr Reply Aff., ¶ 57. Notably, unlike the Wisconsin test, BearingPoint's Michigan March 7 Update reveals that SBC has not yet passed test criterion 1 of the PMR1 test with respect to the Bona Fide Requests Measure Group. Similarly, SBC, pointing to the "satisfied" findings for test criterion 1 in the Wisconsin PMR1 test for the Coordinated Conversion and Miscellaneous Administrative Measure Groups, states that the mere fact that SBC passed the PMR1 test for these measures in Wisconsin highlights the lack of merit in AT&T's claim that these changes in data flows could generate test failures. *Id.* However, in the Michigan test, BearingPoint has found that SBC has not yet satisfied test criterion 1 of the PMR test for these measurement groups.

[72] *Id.* at 56, Test Reference PMR1-1-R.

measurement groups. In view of the "Not Satisfied" findings in BearingPoint's March 7 Metrics Update with respect to test criterion 1 in the PMR1 test, as well as BearingPoint's ongoing examination to determine the impact of data flow changes on affected measurements, SBC's assertion that these test findings somehow confirm the reliability of its data is preposterous. Furthermore, since many of these changes were implemented after E&Y conducted its testing, it is plainly evident that the E&Y audit is based upon outdated systems of record.[73]

72. **PMR1-2.** BearingPoint's March 7 Metrics Update also reports that SBC failed 13 of the 18 test criteria in Test Reference PMR1-2 which evaluates whether "[t]he metrics data processing and technical requirements documentation is complete and up-to-date."[74] These "Not Satisfied" findings were based upon BearingPoint's Exception 187, issued on February 18, 2003, in which BearingPoint found that SBC "does not adequately document the calculation logic applied to reported data used in the calculation of certain" reported performance results.[75]

73. In its reply comments, SBC glosses over these deficiencies and suggests that BearingPoint's findings in Exception 188 are essentially narrow in scope.[76] As AT&T has previously explained, the 55 performance measures that are impacted by these defects in SBC's calculation logic affect "critical" measures that this Commission has examined in evaluating

[73] Moore/Connolly Decl., ¶¶ 113-115.

[74] *See*, *e.g.*, BearingPoint March 7 Metrics Update at 7.

[75] *Id.* at 7, 10, 13, 15, 18, 26, 29, 32, 37, 39, 42, 53, 56. *See also* Moore/Connolly/Norris Reply Decl., ¶ 19.

[76] Ehr Reply Aff., ¶ 44.

prior Section 271 applications.[77] Given these substantial deficiencies in SBC's calculation logic – deficiencies that can spawn inaccuracies in reported results – SBC cannot seriously contend that BearingPoint's test findings demonstrate the validity of its data.

74. **PMR1-6.** BearingPoint's March 7 Metrics Update also reports that SBC failed 10 of 18 criteria in the PMR1-6 test which is designed to evaluate whether data are retained in accordance with regulatory requirements. These "Not Satisfied" findings are based upon Exception 186 in which BearingPoint found that SBC failed to "demonstrate that certain system[s] of record and reporting system historical data were retained in compliance with requirements."[78] The March 7 Metrics Update provides additional information regarding the defects in SBC's data retention processes.

75. During its examination of the Pre-Ordering Measure Group, BearingPoint found that SBC failed to retain historical performance data from the ICS/DSS and ARIS/EXACT systems in compliance with regulatory requirements.[79] Additionally, the March 7 Metrics Update reveals that BearingPoint and SBC "have identified five data transfer scenarios where the source system is different from the system of record," and that BearingPoint is currently

[77] Moore/Connolly/Norris Reply Decl., ¶¶ 23-32.

[78] *See, e.g.*, BearingPoint March 7 Metrics Update at 9, Test Reference PMR1-6-A. *See also* Moore/Connolly/Norris Decl., ¶¶ 19-22.

[79] BearingPoint March 7 Metrics Update at 9, Test Reference PMR1-6-A; Moore/Connolly/Norris Decl., ¶ 20.

conducting a review "of the data transfer procedures between these systems to determine if source data are currently being retained by SBC Ameritech in the systems of record."[80]

76. With respect to the Ordering Measure Group, BearingPoint found that SBC failed to retain historical performance data for the ICS/DSS and ARIS/EXACT systems in accordance with regulatory requirements.[81] Additionally, the March 7 Metrics Update reports that BearingPoint and SBC "have identified 12 data transfer scenarios where the source system is different from the system of record," and that BearingPoint is currently attempting to assess whether the source data are currently being retained in the systems of record.[82]

77. With respect to the Provisioning Measure Group, BearingPoint found that SBC failed to retain historical performance data for the ICS/DSS and ARIS/EXACT systems in accordance with regulatory requirements. The March 7 Metrics Update also reveals that BearingPoint and SBC "have identified 11 data transfer scenarios where the source system is different from the system of record," and that BearingPoint is currently examining the data transfer procedures between the systems to assess whether source data are being retained by the systems of record.[83]

78. In examining the Maintenance and Repair Measure Group, BearingPoint found that SBC failed to retain its historical performance measurement data for the

[80] BearingPoint March 7 Metrics Update at 9, Test Reference PMR1-6-A.

[81] BearingPoint March 7 Metrics Update at 12, Test Reference PMR1-6-B. *See also* Moore/Connolly/Norris Decl., ¶ 20.

[82] BearingPoint March 7 Metrics Update at 12, Test Reference PMR1-6-B.

[83] *Id.* at 14, Test Reference PMR1-6-C.

ARIS/EXACT system in accordance with State requirements. In addition, BearingPoint and SBC "have identified eight data transfer scenarios where the source system is different from the system of record," and BearingPoint is presently attempting to determine whether source data are being retained by the systems of record.[84]

79. During its assessment of the Billing Measure Group, BearingPoint concluded that SBC failed to retain data in accordance with regulatory requirements for ACIS, CABS, CAMPS, RBS and DUF Parity Files.[85] Although Michigan requires the retention of source data for two years, BearingPoint found, for example, that the "DUF Parity File data are available for 90 days." The March 7 Metrics Update also reports that BearingPoint and SBC have uncovered "one data transfer scenario where the source system is different from the system of record," and that BearingPoint is currently evaluating whether the source data are being retained in Mentor.[86]

80. With regard to the Miscellaneous Administrative Measure Group, BearingPoint found that SBC has failed to retain historical performance data for the Genesys Call Management System and CCMIS Wholesale System in accordance with regulatory requirements.[87]

81. Similarly, in connection with its examination of the Interconnection Trunks Measure Group, BearingPoint found that SBC failed to retain historical performance data

[84] *Id.* at 17, Test Reference PMR1-6-D.

[85] *Id.* at 21, Test Reference PMR1-6-E. *See also* Moore/Connolly/Norris Reply Decl., ¶ 21.

[86] BearingPoint March 7 Metrics Update at 21, Test Reference PMR1-6-E.

[87] *Id.* at 25, Test Reference PMR1-6-F.

for the ARIS/EXACT and NSDB systems in compliance with regulatory requirements.[88] The March 7 Metrics Update also explains that BearingPoint and SBC have identified four data transfer scenarios as to which the source system differs from the system of record, and that BearingPoint is currently assessing whether source data are being retained.[89]

82. In examining the Local Number Portability Measure Group, BearingPoint found that SBC failed to retain historical performance data for ICS/DSS in accordance with regulatory requirements.[90] The March 7 Metrics Update also reports that SBC and BearingPoint "have identified seven data transfer scenarios where the source system is different from the system of record," and that BearingPoint is currently evaluating whether the source data are being retained in the systems of record.[91]

83. During its examination of the Directory Assistance Database Measure Group, BearingPoint found that SBC did not retain its performance data for the Manual-Directory Assistance Data Measures and ALPSS systems in accordance with regulatory requirements.[92] Although Michigan law requires the retention of source data for 24 months, BearingPoint found, for example, that the Manual-Directory Assistance Measures data were retained only from September 2002.[93]

[88] *Id.* at 28, Test Reference PMR1-6-G.

[89] *Id.*

[90] *Id.* at 33, Test Reference PMR1-6-I.

[91] *Id.*

[92] *Id.* at 44, Test Reference PMR1-6-M.

[93] *Id.*

84. In examining data in the Other Measures Group, BearingPoint found that SBC failed to retain its historical performance data for the ICS/DSS, ARIS/EXACT, and Manual-EBTA Clear Close Systems in accordance with regulatory requirements.[94] BearingPoint found, for example, that SBC had retained ARIS/EXACT data only from April 2002. The March 7 Metrics Update also reports that SBC and BearingPoint "have identified 10 data transfer scenarios where the source system is different from the system of record" and that BearingPoint is presently attempting to assess whether the source data are being retained in the systems of record.[95]

85. Thus, any notion that BearingPoint has validated SBC's data during PMR1-6 testing is belied by the significant deficiencies in SBC's data retention practices which cut a wide swath across numerous performance measure groups. Critically, the failure of SBC to retain its historical source data in compliance with regulatory requirements renders it impossible for CLECs to engage in data reconciliation with respect to those performance data that are missing from SBC's systems. In view of these significant gaps in SBC's source systems, it is ludicrous for SBC to assert – as it does here – that its willingness to engage in data reconciliation should provide this Commission with additional assurance that its data are reliable.[96]

[94] *Id.* at 58, Test Reference PMR1-6-R.

[95] *Id.*

[96] *See* Ehr Decl., ¶¶ 6, 196.

B. PMR3

86. In its March 7 Metrics Update, BearingPoint reports that SBC has failed two test criteria in the PMR3 (Metrics Change Management) test.[97] In Test Reference PMR3-6, BearingPoint evaluates whether SBC's "metrics change process provides for the monitoring of source systems for changes that impact metrics reporting."[98] Because BearingPoint found, during its initial testing, that SBC's metrics change management process did not require the communication of metrics changes to "relevant parties" or the identification of metrics changes to source data systems, BearingPoint opened Exception 41 on February 11, 2001. After BearingPoint issued this exception, SBC advised BearingPoint that it has implemented new processes for communicating metrics changes. BearingPoint is currently assessing the effectiveness of these new procedures.

87. Similarly, in the PMR3-7 test, BearingPoint is evaluating whether SBC adheres to the intervals for implementing changes to the business rules governing the metrics. In Exception 157, BearingPoint found that SBC failed to implement changes to the metrics business rules in a timely manner. Since that exception was issued, SBC has advised BearingPoint that a process for the implementation of changes to the metrics rules will be included in its Change Management Policy and Procedures.[99] BearingPoint is currently assessing these processes. In all events, SBC has not yet satisfied these two criteria in the PMR3 test, and it is premature for SBC to claim victory in satisfying these tests.

[97] BearingPoint March 7 Metrics Update at 72-73, Test References PM3-6, PM3-7.

[98] *Id.* at 72, Test Reference PMR3-6.

[99] *Id.* at 73, Test Reference PMR3-7.

C. PMR4

88. In its March 14 *ex parte*, SBC, imploring this Commission to ignore BearingPoint's findings in the PRM4 test and rely instead on E&Y's findings, asserts that the E&Y audit "constitutes the relevant third party test."[100] This Commission should not rise to the bait.

89. As AT&T has explained, because of the procedural and substantive flaws in the E&Y audit, that audit cannot and should not be considered as a suitable substitute for the ongoing BearingPoint audit. Relatedly, as AT&T also explained in its reply comments, the ICC Staff similarly has found that, because of the differences in testing methodologies, the E&Y audit is not a reasonable surrogate for the BearingPoint audit.

90. When reduced to its simplest terms, SBC's request that the Commission jettison BearingPoint's PMR4 test is nothing more than a transparent attempt to escape from the significant metrics failings that BearingPoint has uncovered to date. In this regard, BearingPoint's March 7 Metrics Update reveals that, during the PMR4 test, SBC has failed 14 and satisfied 2 of the 72 test criteria. The remaining test criteria are indeterminate or not applicable.

91. BearingPoint has found, with respect to scores of measures, that the data fields in SBC's processed data which are used to calculate performance results are inconsistent with those in SBC's unprocessed data from source systems. BearingPoint also has found, *inter alia,* that source records are not included in the data SBC uses to calculate performance results.

[100] SBC March 14 *ex parte*, Attach. C at 5.

Set forth below are illustrative examples cited in the March 7 Metrics Update regarding the deficiencies in SBC's performance data during PMR4 testing:

- The "[d]ata fields in processed data used to calculate measures in the Ordering Measure Group are not consistent with those in unprocessed data from source systems."[101]

- SBC has not satisfied the PMR4-4 test for the Provisioning Measure Group. These Not Satisfied findings are based upon: (1) Exception 134 in which BearingPoint found that SBC improperly populated the product name field as "UNKNOWN" for 29,662 records in the January 2002 Regulatory Reporting System which impacted 20 provisioning metrics; (2) Observation 619, in which BearingPoint found that SBC failed to "completely transfer unprocessed records to processed records for PM 58; and (3) Observation 769, in which BearingPoint found that SBC's processed data for PM 59 are "not consistent with its unprocessed records from source systems."[102]

- SBC failed the PMR 4-4 tests for the Maintenance and Repair Measure Group. These "Not Satisfied" findings are based upon: (1) Observation 807 issued on February 17, 2003, which found that SBC failed to "completely transfer unprocessed records to processed records" for Performance Measures 38, 39, 40, 52, 66, 67, and 68; and (2) Exception 134, issued on January 17, 2003, in which BearingPoint found that SBC erroneously populated the product name field.

- With respect to the Billing Measure Group, SBC failed the PMR4-4 test, as well as the PMR4-1 tests. The "Not Satisfied" findings are based upon Exception 176, in which BearingPoint found (and SBC conceded) that Category 11 DUF records were excluded from its performance results for Performance Measure 19.[103]

[101] BearingPoint March 7 Metrics Update at 95, Test Reference PMR4-4-B. BearingPoint also notes that "[a] twelfth measure set was to be evaluated using a sample of January 2002 records related to the retail portion of PM 13." *Id.* at 96. However, BearingPoint found that the January 2002 source data were unavailable, and that "the retention system is different from the source system." *Id.* The report further notes that BearingPoint plans to evaluate SBC's process for transferring data from the source system to the retention system. *Id.*

[102] *Id.* at 99, Test Reference PMR4-4-C.

[103] *Id.* at 106-107, Test Reference PMR4-4-E.

- SBC failed the PMR4-4 test for the Local Number Portability Group because SBC's processed data used to collect reported results are inconsistent with those in SBC unprocessed data from its source systems. BearingPoint's findings are based upon Exception 134, which reported that SBC improperly populated the product name field as "Unknown" for 29,662 records.[104]

- SBC failed test criteria PMR4-3 and PMR4-4 for the 911 Measure Group. In explaining the basis for this "Not Satisfied" finding, BearingPoint references Exception 181, which found that SBC failed to completely transfer unprocessed records to processed records when collecting its performance results for PM 104.1.[105]

- With respect to the Coordinated Conversion Measure Group, SBC failed the PMR4-4 test based upon: (1) Observation 737 issued on December 5, 2002, in which BearingPoint found that SBC's processed data used to evaluate its performance results are inconsistent with its unprocessed records from the source systems for Performance Measures 114, 114.1 and 115; and (2) Exception 175, version 2 dated January 10, 2003, in which BearingPoint found that SBC is using incorrect data when calculating its performance results for Performance Measures 114 and 115 from January through June 2002.[106]

- SBC failed test criteria PMR4-3 and PMR4-4 for the Bona Fide Requests Measure Group.[107] The basis for this finding is Exception 179, Version 2, dated January 10, 2003, in which BearingPoint found that SBC failed to completely transfer its unprocessed records to processed records when collecting results for Performance Measure 120.[108]

- SBC failed test criterion PMR4-3 for the Other Measure Group based upon Exception 174 in which BearingPoint concluded that SBC is using incorrect data in calculating results for Performance Measure MI 11.[109] Additionally, SBC failed test criterion PMR4-4 based upon: (1) Exception 134 in which BearingPoint found that SBC incorrectly

[104] *Id.* at 116, Test Reference PMR4-4-I.

[105] *Id.* at 118-119, Test References PMR4-3-J, PMR4-4-J.

[106] *Id.* at 129, Test Reference PMR4-4-N.

[107] *Id.* at 134-135, Test References PMR4-3-P; PMR 4-4-P.

[108] *Id.*

[109] *Id.* at 140-141, Test Reference PMR4-3-R.

> populated the product name field for 29,662 records; (2) Exception 174 in which BearingPoint found that SBC used incorrect data in calculating its results for PM MI 11; and (3) Observation 767 in which BearingPoint found that the data fields in SBC's processed data are inconsistent with those in its unprocessed records for PM IN 1 for January 2002.[110]

92. The current results of BearingPoint testing supersede the E&Y audit and report problems in areas where E&Y found that SBC's data integrity processes were adequate. Clearly, the fact that E&Y failed to detect these problems demonstrates the inherent unreliability of the E&Y audit. Through the welter of BearingPoint's PMR4 findings in the March 7 Metrics Update, these salient facts emerge with clarity: (1) SBC's performance collection and reporting processes are riddled with errors; (2) SBC's invitation that the Commission ignore BearingPoint's PMR4 findings should be rejected; and (3) the serious deficiencies in SBC's performance monitoring and reporting processes preclude a finding that SBC's data are reliable.

D. PMR5

93. Consistent with its approach with respect to BearingPoint's PMR4 test, SBC, in its March 14 *ex parte*, also invites this Commission to ignore BearingPoint's PMR5 test and rely instead on E&Y's audit. The Commission should reject SBC's request.

94. According to BearingPoint's March 7 Metrics Update, SBC has passed 20 (28%) and failed 42 (58%) of the 72 test criteria in the PMR5 (Metrics Replication) test.[111] Thus, SBC has failed the far majority of the test criteria in the PMR5 test. The remaining test criteria are indeterminate.

[110] *Id.* at 141-142.

[111] *Id.* at 159.

95. The "Not Satisfied" findings in the PMR5 test have been issued in *15* of the 18 performance measurement groups.[112] Thus, for example, BearingPoint has found that "at least 49 percent of the values [for the Pre-Ordering Measurement Group] are considered to be calculated inconsistently with the documented metrics calculation rules."[113]

96. BearingPoint also found that "[a]t least 37 percent of the BearingPoint-calculated and SBC Ameritech-reported values do not match for each of the July, August, and September 2002 CLEC Aggregate Performance Measurement Reports for the Ordering Measure Group."[114] Furthermore, BearingPoint found that "at least 21 percent" of SBC's metrics values for the Maintenance and Repair Measure Group are inconsistent with the business rules governing the measures.[115]

97. With respect to the Provisioning Measure Group, BearingPoint found that SBC's and BearingPoint's calculated metrics values do not agree with respect to SBC's "July, August and September 2002 performance results for the Provisioning Measure Group."[116]

[112] *Id.* at 159. "Not Satisfied" findings have been issued in the following performance measurement groups: Preordering; Ordering; Billing; Provisioning; Maintenance and Repair; Interconnection Trunks; Local Number Portability; 911; Poles, Conduits and Right of Way; Collocation; Directory Assistance Database; Coordinated Conversions; Bona Fide Requests; FMOD; and Other. Satisfied and Indeterminate findings have been made with respect to the Miscellaneous-Administrative; Directory Assistance/Operator Services; and NXX performance measurement groups.

[113] *Id.* at 161, Test Reference PMR5-3-A.

[114] *Id.* at 166, Test Reference PMR5-4-B.

[115] *Id.* at 179, Test Reference PMR5-3-F.

[116] *Id.* at 172, Test Reference PMR5-2-E.

BearingPoint also found that SBC's implementation of the provisioning measures is inconsistent with the business rules governing the metrics.[117]

98. Similarly, BearingPoint found that "[a]t least 21 percent of the BearingPoint-calculated and SBC Ameritech-reported values do not match for each of the July, August and September 2002 CLEC Aggregate Performance Measurement Reports for the Local Number Portability Measure Group."[118]

99. Moreover, the March 7 Metrics Update is littered with other examples of SBC's failures to calculate scores of performance measurements in accordance with the published business rules. In explaining the basis for these "Not Satisfied" findings, BearingPoint points to a slew of observations that have been opened in the PMR5 test.

100. In that connection, since AT&T filed its reply comments, BearingPoint has continued to uncover defects in SBC's performance data and has opened new observations. On March 5, 2003, BearingPoint opened Observation 814, finding that SBC's reported results for provisioning and maintenance and repair measurements do not comply with the July, August and September 2002 business rules for UNE-P.[119] BearingPoint found that SBC is improperly excluding UNE Loop and Port ISDN BRI non-designed orders when calculating provisioning and maintenance and repair measurements.[120]

[117] *Id.* at 174, Test References PMR5-3-E; PMR5-4-E.

[118] *Id.* at 188-189, Test References PMR5-3-1; PMR5-4-1.

[119] BearingPoint Observation 814, dated March 5, 2003.

[120] *Id.* The performance measures at issue are: PM 27 (Mean Installation Interval); PM 28 (Percent POTS/UNE-P Installations Completed Within the Customer Requested Due Date); PM 29 (Percent

(footnote continued on next page)

101. On March 6, 2003, BearingPoint opened Observation 815, finding that SBC's reported results for Performance Measurement 114 (Percentage of Premature Disconnects (Coordinated Cutovers)) fail to adhere to the July, August, and September 2002 business rules.[121] In this regard, the governing business rules provide "that an order should be included in the numerator if SBC disconnects the customer '10 minutes or more prior to the scheduled conversion time.'"[122] However, BearingPoint found that SBC captured only those orders that were disconnected 11 minutes or more before the scheduled conversion.

102. In Observation 816 opened on March 6, 2003, BearingPoint found that SBC is incorrectly applying exclusions when calculating its July, August and September 2002 reported results for: PM 114 (Percentage of Premature Disconnects (Coordinated Cutovers)); PM 114.1 (CHC/FDT LNP with Loop Provisioning Interval); PM 115 (Percentage of Ameritech Caused Delayed Cutovers); PM 115.1 (Percent Provisioning Trouble Reports); PM 115.2 (Mean Time to Restore – Provisioning Trouble Reports); and PM MI 3 (Coordinated Conversions Outside of Interval).[123]

(footnote continued from previous page)
Ameritech Caused Due Dates); PM 30 (Percent Ameritech Missed Due Dates Due to Lack of Facilities); PM 31 (Average Delay Days for Missed Due Dates Due to Lack of Facilities); PM 32 (Average Delay Days for Ameritech Caused Missed Due Dates); PM 33 (Percent Ameritech Caused Missed Due Dates); PM 35 (Percent Trouble Reports Within 30 Days (I-30) of Installation); PM 37 (Trouble Report Rate); PM 37.1 (Trouble Report Rate Net of Installation and Repeat Reports; PM 38 (Percent Missed Repair Commitments); PM 39 (Receipt To Clear Duration); PM 40 (Percent Out of Service (OOS) <24 Hours); PM 41 (Percent Repeat Reports); and PM 42 (Percent No Access (Percent of Trouble Reports with No Access)).

[121] BearingPoint Observation 815, dated March 6, 2003.

[122] Performance Measurement 114, SBC Performance Measurement Business Rules.

[123] BearingPoint Observation 816, dated March 6, 2003.

103. On March 6, 2003, BearingPoint opened Observation 817, finding that it could not replicate SBC's August and September performance data for PM 73 (Percentage Missed Due Dates – Interconnection Trunks).[124] On that same day, BearingPoint opened Observation 818, finding that it cannot replicate SBC's July, August and September 2002 reported results for PM 104.1 (Average Time It Takes to Unlock the 911 Record).[125] Thus, for example, in its July 2002 results for this measure, BearingPoint reported a value of 1,427 for the numerator, while SBC reported a value of 15,158. In the denominator, BearingPoint reported a value of 3,325, while SBC reported a value of 4,709. These wide differences in values highlight that SBC's general claims of data accuracy are devoid of merit.

104. BearingPoint's PMR5 findings in the March 7 Metrics Update – findings that SBC entreats this Commission to ignore – provide further confirmation that SBC's performance data are inaccurate and unreliable. In an attempt to bolster its argument that BearingPoint's findings are not worthy of consideration by this Commission, SBC, in its reply comments asserts that "[t]he mere fact [that] observations and exceptions [have been] issued by BearingPoint is not a statement about the quality of SBC's Midwest's processes or systems."[126] SBC's arguments are devoid of merit.

105. As the March 7 Metrics Update makes clear, the "Not Satisfied" findings during the PMR5 test are based upon exceptions, as well as the observations that BearingPoint has issued to date. The wealth of these exceptions and observations -- which are riddled with

[124] BearingPoint Observation 817, dated March 6, 2003.

[125] BearingPoint Observation 818, dated March 6, 2003.

[126] Ehr Reply Aff., ¶ 32.

examples of serious and wide-ranging deficiencies in SBC's performance monitoring and reporting processes -- is telling evidence of the lack of "quality of SBC's Midwest's processes or systems."[127]

106. Equally disturbing is the fact that SBC has "dragg[ed] its feet" during the BearingPoint audit.[128] In its reply comments, however, SBC insists that it has responded to BearingPoint in a "timely manner."[129] AT&T does not have access to BearingPoint's data requests. However, the March 7 Metrics Update provides insights into the timeliness with which SBC has responded to BearingPoint's inquiries.

107. Thus, for example, the March 7 Metrics Update reveals that, as of February 14, 2003, BearingPoint was still awaiting SBC's responses to: three data requests impacting 21 measures in the Provisioning Measure Group;[130] three data requests impacting 12 measures in the Maintenance and Repair Measures Group;[131] one data request impacting seven measures in the Local Number Portability Group;[132] one data request impacting six measures in the Coordinated Conversion Measure Group;[133] and two data requests impacting three measures in the Other Measures Group.[134]

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[127] *Id.*

[128] *Id.*, ¶ 34.

[129] *Id.,* ¶ 33.

[130] BearingPoint March 7 Metrics Update at 98, Test Reference PMR4-3-C.

[131] *Id.* at 102, Test Reference PMR4-3D.

[132] *Id* at 116, Test Reference PMR4-4-I.

[133] *Id.* at 128, Test Reference PMR4-3-N.

[134] *Id.,* at 142-43, Test Reference PMR4-3-R.

108. Similarly, BearingPoint's Open Observation Status Report includes any number of examples where SBC has repeatedly deferred discussion of performance data deficiencies which are the subject of observations. For example, on November 27, 2002, BearingPoint opened Observation 710, finding that "SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurements 96 (Percentage of Pre-mature Disconnects for LNP Orders), 97 (Percentage of Time Ameritech Applies the 10-Digit Trigger Prior to the LNP Order Due Date) and 98 (Percentage Trouble LNP (I-Reports) in 30 Days of Installation) for July, August and September 2002."[135] Since BearingPoint issued this observation, SBC, on nine separate occasions, has deferred discussion of this observation. During one call, SBC requested a one-week deferral. On eight occasions, SBC has requested a deferral for two weeks or longer. SBC has yet to provide an explanation regarding the underlying reasons for the improper exclusions which are the subject of this observation.

109. Similarly, on March 31, 2002, BearingPoint opened Observation 778, finding that "SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement 5.2 (Percentage of Unsolicited FOCs by Reason Code) for the July 2002 data month."[136] SBC provided its response to this observation on March 17 – more than 75 days after the release of the observation and after it deferred discussion of these issues five times during the Observation and Exception conference calls held in January, February, and March, 2003. These delays in the auditing process are solely attributable to SBC. Thus, despite SBC's

[135] BearingPoint Observation 710, dated November 27, 2002.

[136] BearingPoint Observation 778, dated December 31, 2002.

assertions to the contrary, the evidence strongly suggests that SBC has, in fact, "dragged its feet" and delayed the auditing process.

V. THE E&Y AUDIT IS FUNDAMENTALLY FLAWED.

110. As AT&T has explained, the E&Y audit is procedurally and substantively flawed because:

- SBC failed to conduct a comprehensive evaluation of SBC's raw data to assure accuracy in reported results;
- The E&Y audit was far too limited in scope;
- E&Y's flawed definition of "materiality" necessarily means that defects in the data could be masked;
- E&Y failed to perform pseudo-CLEC testing;
- E&Y's so-called analytical review was woefully inadequate;
- E&Y's performance measurement code reviews are infirm since SBC did not write its own programming logic that comports with the business rules;
- E&Y's analysis was based on outdated source systems;
- E&Y inappropriately accepted at face value SBC's liberal and misguided interpretations of the business rules; and
- the steps that E&Y purportedly took to confirm whether SBC had taken corrective steps to cure defects in its systems are fundamentally flawed.

111. In its reply comments and *ex parte*s, SBC insists that E&Y's audit is above reproach, and that AT&T's challenges regarding E&Y's auditing methodology are specious. SBC's arguments cannot withstand analysis.

112. **Raw Data**. As AT&T has explained, verification of the accuracy of a BOC's reported performance data requires a comprehensive assessment of each element within the data collection, monitoring and reporting processes, including an evaluation of the accuracy of the raw input data from which reported results are derived.[137] The E&Y audit is deficient because E&Y did not conduct a comprehensive examination of SBC's raw data to assess the accuracy of SBC's reported results. In its effort to show that E&Y did, in fact, conduct such an examination, SBC's reply comments include the Dolan/Horst Second Joint Affidavit, in which E&Y states:

> Data Integrity. E&Y examined underlying raw data. E&Y's approach to the data integrity portion of the examination included all key areas, including review of raw data. The procedures employed included understanding and testing the sources of data, the processing and control of such data, and the validity of data entering the source systems. E&Y performed examination procedures in many different areas impacting data integrity, including both manual and electronic original data sources entering the source systems for processing and ultimately, inclusion in the calculation of performance measures.[138]

113. However, a close examination of the testing that E&Y conducted reveals that E&Y's examination did not include testing of the raw data through SBC's systems to assure the accuracy and reliability of SBC's reported data. E&Y's testing involved site visits so that the E&Y testers could observe the preparation of "raw data" in the SBC work centers. This testing involved an examination of procedures that SBC staff utilize in the course of order processing, provisioning, and maintenance and repair functions. E&Y observed SBC staff entering orders,

[137] Moore/Connolly Decl. ¶ 103.

[138] Dolan/Horst Second Joint Aff. at ¶ 19.

provisioning services, working with trouble tickets, and validating wholesale bills. These test steps gave E&Y insight into the creation of "transactions" and the entries within transactions that would be used for reporting results.[139]

114. E&Y's testing did *not* include a robust evaluation of the raw data used in performance measurement reporting or the manner in which filtered processed data (derived from raw data) are used for performance measurement reporting. During its test, E&Y did not follow the paths of the raw data through SBC's systems to ensure the reliability of SBC's reported results. In addition, E&Y did not generate its own transactions that could have been used as a control point for pre-ordering, ordering, provisioning, repair, and billing testing. During its testing, E&Y relied on samples of data obtained from production data files.[140]

115. Furthermore, during its data integrity testing, E&Y failed to examine electronic pre-ordering and ordering data at their point of entry into SBC's systems. Rather, as E&Y has testified, E&Y examined SBC's data after they had been translated from the CLEC interface format, Electronic Data Interchange (EDI), into the SBC internal system "language," by the SBC translation system:

> MR. KEVIN GRAY: The EDI translator program is really a pass through. It receives – and again it's only for certain interfaces. So as a transaction is received it goes through the EDI translator and then into the source system.

[139] E&Y has asserted that its testing procedures, consistent with AICPA guidelines, enable it to profess its opinion on SBC's compliance with the PM business rules, but has not identified the specifics of those guidelines.

[140] E&Y used samples of 260 transactions for large data sets and 40 transactions for small data groups. In some cases, E&Y indicated it employed 100% samples for small groups.

Q. So if there was a transaction that got into that translator, but got eaten, you wouldn't have seen that, correct?

MR. KEVIN GRAY: There are – in our transaction testing?

Q. Yes.

MR. KEVIN GRAY: No, we wouldn't see it.[141]

116. SBC's failure to examine the raw data before they were processed in the EDI translator is a serious defect in testing. In fact, E&Y was asked whether its examination of raw data would have captured the "lost order" problem experienced by CLECs in New York shortly after Bell Atlantic-New York ("Bell Atlantic") won 271 authorization there.[142] It is our understanding that, in connection with the Commission's investigation into the lost order problem, Bell Atlantic reported that a major contributor to that problem was Bell Atlantic's ECXpert system. ECXpert is a system that Bell Atlantic installed to decrypt orders that CLECs submit via Bell Atlantic's EDI interface and translate them into Bell Atlantic's internal Electronic Interface Format before the files are handed off to Bell Atlantic's DCAS System for business rules tests.

117. However, as E&Y has conceded, because it reviewed SBC's data only after it passed through the EDI translator, E&Y could not have detected whether transactions had been lost (as in New York) before they were handed off to the source system:

[141] Illinois Hearing Transcript at 3429, *In the Matter of: Illinois Commerce Commission, On its Own Motion, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. 01-0662.

[142] *See In the Matter of Bell Atlantic-New York Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, File No. EB-00-IH0085, Order

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> Q. So you are really doing – let me just make sure, because that EDI translator, if we go back to the old New York meltdown, that was the piece that melted down and all those transactions got lost.
>
> You are looking at an EDI transaction after it gets out of the translator and when it hits the first SBC system that actually collects that data?
>
> MR. KEVIN GRAY: For the transactions that go through the EDI translator, which is some of the transactions.[143]

118. In contrast, during its test, BearingPoint examines and compares SBC's raw data (*i.e.* unprocessed data) against SBC's processed data and tracks SBC's raw data through SBC systems with adequate (and documented) controls to assure the accuracy and reliability of reported results.[144] During the PMR4 data integrity test, BearingPoint draws high volume samples from the reporting systems that must be supported by corresponding raw data transactions. BearingPoint also uses test CLEC transactions which serve as the control method and basis for testing the accuracy of SBC's data used in processing CLEC transactions and reporting performance results.[145] BearingPoint's four PMR4 data integrity test criteria rely on test data sets, specified by BearingPoint, that must be traced to the data captured at the source system for each of the 18 Performance Measure Groups:

(footnote continued from previous page)
released March 9, 2000.

[143] Illinois Hearing Transcript at 3429-3430.

[144] *See, e.g.,* BearingPoint Michigan October 30, OSS Test Report at 33 (noting that "BearingPoint extracted and analyzed the fields in the unprocessed data files"); *id.* ("BearingPoint examined each unprocessed log, file, and record separately").

[145] *Id.* at 33 (noting that "BearingPoint also compared its own records of BearingPoint test CLEC transactions (*e.g.*, number of records submitted, confirmation time received, etc.) to SBC Ameritech's processed data").

PMR4-1 Required source records are included in data used to calculate measures in each Measure Group.

PMR4-2 Inappropriate records are not present in processed data used to calculate measures in each Measure Group.

PMR4-3 Records in processed data used to calculate measures in each Measure Group are consistent with unprocessed data from source systems.

PMR4-4 Data fields in processed data used to calculate measures in each Measure Group are consistent with unprocessed data from source systems.

119. Those performance measurements with reporting system data which cannot be traced to the corresponding data captured at the source systems are documented in observations issued by BearingPoint. Through this testing, BearingPoint has found 19 instances, involving 65 performance measurements, where the integrity of SBC's data was deemed suspect. Thirteen of these observations were issued *after* the E&Y Audit Report was published.[146] Five of these observations are unresolved as of March 25. Based upon the foregoing, SBC cannot reasonably assert that E&Y's audit involved a comprehensive evaluation of SBC's raw data through SBC's systems to assure accuracy in reported results.

120. **Retesting**. In its March 17 *ex parte*, SBC responds to an inquiry from the Commission Staff regarding the nature and scope of retesting conducted by E&Y. In this regard, the Commission Staff, noting that E&Y "examined modified computer code and in some cases reflowed a subset of data . . . through the revised logic to test the correction," inquired how E&Y could have determined "whether the correction, as implemented, had unintended consequences

[146] Attachment 5 provides information regarding the 19 observations where BearingPoint found problems with the integrity of SBC's performance data, the 13 observations issued after the E&Y Audit Report was published, and the six observations that are unresolved.

with respect to other data that was not mishandled by the original code."[147] SBC's response to this inquiry highlights the deficiencies in E&Y's testing methodology.

121. In this regard, citing the Dolan/Horst Second Joint Affidavit, SBC asserts that "E&Y performed transaction testing to determine that the program code was functioning as designed."[148] Stated differently, E&Y simply checked to determine if the modified computer code corrected the problem identified. Furthermore, SBC, in its response, concedes that "E&Y did not perform 'regression testing,' meaning an analysis on the corrective action to determine if unintended consequences with respect to other data not mishandled by the original computer program code occurred."[149] Thus, SBC has admitted that E&Y did not conduct the type of testing that would have determined "whether the correction, as implemented, had [or did not create] unintended consequences with respect to other data."[150]

122. The deficiencies in the E&Y audit are further illustrated by the fact that BearingPoint has uncovered defects in SBC's performance data that were undetected by E&Y. For example, on December 31, 2002, BearingPoint opened Observation 778, finding that SBC is improperly "excluding unsolicited FOCs for certain order class codes" when calculating its July 2002 performance results for Performance Measure 5.2 (Percentage of Unsolicited FOCs by Reason Code).[151] However, conspicuously absent from the E&Y audit report is any reference to

[147] SBC March 17 *ex parte*, Attachment A at 1.

[148] *Id.*

[149] *Id.* at 2.

[150] *Id.* at 1.

[151] BearingPoint Observation 778, dated December 31, 2002. SBC excluded unsolicited FOCs with these class codes: 12, 23, 24, 25, 26, 27, 28, 29, 31 32, 37, 40, 42, 43, 44, 45, 46, 47, 50, 51, 52, 53, 54, 55, 56,
(footnote continued on next page)

SBC's improper exclusion of such FOCs for these order class codes. E&Y's finding on PM 5.2 states as follows:

> Certain transactions were improperly excluded from reported results during the Evaluation Period. These transactions related to new products and an LSOG5 jeopardy code that functioned like an unsolicited firm order confirmation. The transactions related to new products were included in the PM effective with August 2002 results. The other issue has not been corrected as of the date of this report.[152]

123. E&Y's finding, however, does not address the unsolicited FOCs for the numerous order class codes that are identified in Observation 778. Because of these and other fatal flaws in E&Y's testing methodology which AT&T has discussed in its comments, SBC has not demonstrated and cannot demonstrate that E&Y's audit proves that its performance data are accurate, complete, and reliable.

VI. SBC'S ATTEMPT TO DRAW COMPARISONS WITH OTHER 271 APPLICATIONS IS WITHOUT MERIT.

124. As AT&T has previously explained, because of the significant deficiencies in E&Y's testing methodologies and the stark differences in the testing approaches used by E&Y and BearingPoint, the E&Y audit is not a suitable surrogate for the BearingPoint test. AT&T also explained that SBC's abysmal performance during BearingPoint's PMR audit

(footnote continued from previous page)
57, 59, 60, 61, 62, 64, 65, 87, 88, 97, 00 and null. *Id.*

[152] Dolan/Horst Aff., Attach. A, III. Prospective Changes, ¶ 2.

is far worse than the PMR results in similarly-structured BearingPoint PMR tests in states where Section 271 approval has been granted.[153]

125. In responding to these arguments, SBC, in its March 14 *ex parte,* states that: (1) this Commission should find comfort in the E&Y audit, particularly since "this Commission has approved Section 271 relief in Missouri, where E&Y performed a performance measurement audit of Southwestern Bell's performance measurement system and reported results;"[154] and (2) the status of audit testing in Michigan is similar to the testing conducted in Georgia during the *Georgia/Louisiana 271 Proceeding*. SBC is wrong on both counts.

126. The *Missouri 271 Proceeding* and this proceeding are clearly distinguishable. In the *Missouri 271 Proceeding*, the E&Y audit was not contradicted by another performance metrics audit that was being conducted simultaneously under the direction of the Missouri Public Service Commission that uncovered substantial deficiencies in the performance data. In stark contrast, the Michigan BearingPoint audit is being conducted under the auspices of the MPSC, and that audit has uncovered and continues to uncover substantial defects in SBC's performance collection and reporting systems which demonstrate the inherent unreliability of the performance data on which SBC relies.

127. Equally unavailing is SBC's argument that "the status of the third-party testing in Michigan is very similar to BellSouth's experience in Georgia."[155] In its analysis, SBC

[153] *See* Moore/Connolly/Norris Decl., ¶¶ 48, 77-100.

[154] SBC March 14 *ex parte*, Attach. C at 7.

[155] *Id.* at 6.

compares the status of KPMG's Audit III in Georgia with the status of the E&Y and BearingPoint audits. However, SBC's analysis is incomplete because SBC blithely ignores that, in the *Georgia/Louisiana 271 Proceeding*, Audits I and II in Georgia had been completed, with BellSouth satisfying 99 percent and 100 percent of the test criteria in these tests, respectively.[156] In stark contrast, SBC is attempting to rely upon: (1) the BearingPoint audit, which is far from complete and has uncovered substantial defects in SBC's performance monitoring and reporting processes; and (2) the incomplete, procedurally and substantively flawed audit of its hand-picked auditor – an audit which was conducted as an end-run around the BearingPoint audit.[157]

128. Moreover, as AT&T explained in its reply comments, in similar BearingPoint tests in states where Section 271 authority has been granted, the BOC passed over 90 percent of the test criteria.[158] In contrast, BearingPoint's most recent report in Michigan reveals that SBC has passed approximately 27.5 percent and failed approximately 31 percent of the test criteria. Given this remarkable set of circumstances, SBC's feeble attempt to draw favorable inferences from the status of third-party testing in Georgia falls of its own weight.

VII. THE ICC STAFF HAS REJECTED SBC'S ARGUMENTS REGARDING THE RELIABILITY OF ITS DATA.

129. AT&T's reply comments explained that the ICC Staff, after reviewing BearingPoint's and E&Y's findings and SBC's other purported indicia of reliability, concluded

[156] Moore/Connolly/Norris Reply Decl., ¶¶ 82-83.

[157] Moore/Connolly Aff., ¶¶ 100-145.

[158] Moore/Connolly/Norris Reply Decl., ¶ 78.

that SBC's data are not accurate and reliable. In a rebuttal affidavit submitted on March 12, 2003, the ICC Staff reaffirmed that conclusion.

130. The ICC Staff once again rejected SBC's argument that the ongoing BearingPoint audit "need not be completed prior to Section 271 approval, as the FCC discussed in the *Georgia 271 Order.*"[159] Indeed, the ICC Staff correctly observed that the *Georgia/Louisiana 271 Proceeding* is clearly distinguishable.[160] In this regard, the ICC Staff found that (1) in the *Georgia/Louisiana 271 Proceeding*, BellSouth's data had been subjected to three audits, the first two of which were complete; and (2) even the March 7, 2003 BearingPoint Michigan interim report shows that the BearingPoint audit is far from complete.[161]

131. In its latest submission, the ICC Staff also rejected SBC's argument – which is consistent with SBC's approach here – that the issues in the open BearingPoint observations and exceptions "have already been addressed, or are not relevant or substantial enough to limit the ability of parties to rely upon SBC's performance measurement data."[162] In analyzing the testing that is currently being conducted by BearingPoint, the ICC Staff found:

> [Although] "progress has been made with respect to the performance measurement" review since the BearingPoint report was released on December 20, 2002 as SBC has argued, I disagree with SBC's attempts to explain away the issues and believe that the cumulative effect of all of the remaining deficiencies are significant. At this time, SBC is not close to completion of the BearingPoint performance metrics review and therefore the

[159] ICC Staff Rebuttal Aff., ¶ 29.

[160] *Id.*

[161] *Id.*

[162] *Id.,* ¶ 33.

> assertions of the company with respect to reliability and accuracy of its performance measures data are unsubstantiated. Therefore, at this time, I cannot conclude that the performance measurement data is accurate and reliable given the audit perspective provided by BearingPoint.[163]

132. Furthermore, the ICC Staff also rejected SBC's arguments – which are identical to those raised here – that its restatements are not reflective of a lack of controls in its systems.[164] Indeed, in the Illinois proceeding, as in this proceeding, SBC cited the testimony of John Eringis of BearingPoint, who testified that SBC's most recent restatements were triggered by BearingPoint. Seizing upon this testimony, SBC contended, as it does here, that, because its recent restatements were triggered by BearingPoint's (or E&Y's) testing, these restatements cannot possibly evidence a lack of controls in SBC's processes and systems. SBC's analysis cannot withstand scrutiny.

133. The fact that defects in SBC's performance data were unearthed by auditors (rather than SBC) during the course of testing, and that these defects spawned restated results is hardly cause for celebration. These defects, which were undetected by SBC (prior to the audits), are striking examples of the deficiencies in SBC's data collections and reporting systems and lapses in its much-heralded quality assurance efforts. Tellingly, the ICC Staff, citing BearingPoint's testimony, also observed "that in general, a certain level of restatements may be suggestive of existing control problems.[165]

[163] *Id.*, ¶ 33.

[164] *Id.,* ¶ 31.

[165] *Id.,* ¶ 31.

134. The ICC Staff also rejected SBC's attempt to rely on the E&Y audit to establish the reliability of its data. In addressing SBC's arguments that it has addressed the far majority of the exceptions that E&Y reported, the ICC Staff found that E&Y performed limited validation for most of these corrections, and that "[t]his failing undermines the ability of any party to properly evaluate SBC Illinois' performance measurement data submitted in this proceeding for the affected performance measures."[166]

135. The ICC Staff also found that SBC's "processes and controls used to implement and manage changes to its performance measurement systems have not be[en] proven to be effective in preventing new problems from being introduced as changes are made to the performance measure reporting system."[167] The ICC Staff also observed that, because BearingPoint's evaluation of SBC's July and August 2002 data has uncovered "data reporting inaccuracies for the same performance measures E&Y reported . . . SBC has not demonstrated or proven that [the ICC Staff's] concerns are without merit."[168]

136. The ICC Staff also repudiated SBC's assertion that, *inter alia*, continued monitoring by the ICC Staff and CLEC access to raw data and data reconciliation results provide sufficient assurance of the integrity of SBC's performance data.[169] The ICC Staff found that SBC's additional indicia of the purported reliability of its data do "not inspire sufficient confidence that the errors and exceptions found by BearingPoint and E&Y regarding SBC

[166] *Id.,* ¶ 40.

[167] *Id.,* ¶ 37.

[168] *Id.*

[169] *Id.*, ¶ 43.

Illinois' performance measurement systems and reporting can be overlooked, or that the three months of performance measurement data submitted by SBC Illinois in this proceeding are accurate or reliable at this time."[170]

137. Based upon the weight of evidence that SBC presented in the Illinois 271 proceeding – which mirrors the evidence SBC has presented here – the ICC Staff in its rebuttal testimony reaffirmed that the performance data on which SBC relies for 271 approval are unreliable. The testimony of the ICC Staff which highlights the serious deficiencies which have been uncovered during third-party testing in Illinois – testing results which SBC in its opening comments entreated this Commission to consider – demonstrates the absurdity of SBC's assertions that its performance data are accurate and show checklist compliance.

VIII. SBC'S PURPORTED COMMITMENT TO DATA RECONCILIATION RINGS HOLLOW.

138. SBC contends that the access that CLECs have to its raw data and its willingness to engage in data reconciliation are additional indicia that should provide this Commission with sufficient assurances regarding the reliability of its data. In embellishing these allegations, SBC contends that: (1) "[t]he provision of raw data to a CLEC is typically an informal 'business-to-business' arrangement precipitated by the CLEC's request of raw data;"[171] (2) "Michigan Bell has consistently expressed to AT&T its intention to ultimately implement a

[170] *Id.*

[171] SBC March 17 *ex parte*, Attach. A at 2.

raw data web-site, and Michigan Bell has already begun to do so;"[172] (3) AT&T has glaringly omitted to point out that SBC has provided AT&T with raw data over the past year in a timely manner;[173] (4) AT&T's allegations regarding incomplete trouble ticket disposition code information provided by SBC are erroneous;[174] (5) AT&T's allegations regarding SBC's failure to provide subject matter experts during data reconciliation are specious; and (6) shortly before a separate meeting to discuss PM 39, AT&T suddenly reversed course and requested that the parties analyze December 2002 data instead of data from earlier months that had been discussed before. SBC's allegations cannot withstand scrutiny.

139. SBC correctly states that its "provision of data to a CLEC is typically an informal 'business-to-business' arrangement precipitated by a CLEC's request . . . ."[175] Importantly, however, SBC provides raw data on a business-to-business basis because SBC has not implemented the web-based raw data process used in other states which enables CLECs to access the raw data underlying the performance results reported on the BOC's website. Although SBC notes that it "has consistently expressed to AT&T its intention" to implement a raw data website, it has been *three* years since SBC first announced its intention to do so. Effective with its February 2003 results, SBC started making raw data available on its website

[172] Ehr Reply Aff., ¶ 124.

[173] *See* SBC March 17 *ex parte*, Attach. A at 3.

[174] Ehr Reply Aff., ¶ 127.

[175] SBC March 17 *ex parte*, Attach. A at 2.

for *two* measures only (*i.e.* PMs 5 and 6) for the months of October and November 2002. To make matters worse, the website does not function properly.

140. During the first week in March 2003, AT&T attempted on two occasions to retrieve raw data from SBC's website; however, it received an error message each time.[176] Per the instructions in the error message, AT&T sent SBC's site administrator a message regarding its inability to access SBC's raw data. In response, SBC's site administrator instructed AT&T to attempt to access the data again. However, AT&T was unable to access the data and so informed the site administrator.[177] The site administrator, in turn, contacted SBC regarding the problems that AT&T was experiencing in attempting to access raw data for the two measures on SBC's website.[178]

141. On March 10, 2003, AT&T once again unsuccessfully attempted to obtain raw data from SBC's website and so notified SBC.[179] It was not until March 18, 2003 that AT&T was able to retrieve raw data from SBC's website. Thus, SBC's assertions regarding the ease with which CLECs can gain access to its raw data for the paltry two measures for which raw data are posted on its website ring hollow.

[176] Electronic message from Karen Moore to VIRTUAL DEVELOPMENT, dated March 6, 2003 attached as Attachment 6.

[177] Electronic message from Karen Moore to VIRTUAL DEVELOPMENT, dated March 7, 2003 attached as Attachment 7.

[178] Electronic message from VIRTUAL DEVELOPMENT to Karen Moore, Parag Hukeri, dated March 10, 2003, attached as Attachment 8.

[179] *See* electronic message from Karen Moore to Parag Hukeri, dated March 10, 2003, attached as Attachment 9.

142. In its March 14 *ex parte*, SBC also contends that AT&T, in its reply comments, "neglects to acknowledge that Michigan Bell has been providing AT&T raw data for several measurements for approximately a year," and that SBC meets the 20-day turnaround "timeframe envisioned by the Performance Remedy Plan in the large majority of cases."[180] SBC's analysis is highly misleading.

143. Under the terms of the performance remedy plan, AT&T has the right to obtain the raw data underlying all of SBC's reported results for AT&T. However, SBC acknowledged during its discussions with it AT&T, that it would be exceedingly difficult for it to provide raw data for all performance measurements on a routine basis. As a result, SBC agreed to comply with AT&T's standing request for raw data underlying fewer than 10 measures, and that this standing request would not be treated as an invocation of the performance remedy plan. With respect to its standing request for these measures, AT&T expects SBC to respond within one month after the performance results for these measures are posted on SBC's website. SBC and AT&T also agreed that, with respect to other *ad hoc* raw data requests, SBC would respond to these requests quickly, within a few days after the date of request.

144. However, as Attachment 10 shows, SBC has yet to provide the raw data under AT&T's standing request. As Attachment 10 shows, AT&T still has not received:

- May, June and July 2002 raw data for Performance Measurement 5;
- the raw data from May 2002 to December 2002 for Performance Measurement 28;

[180] SBC March 17 *ex parte*, Attachment A at 3.

- the raw data from May, June, July, August, November and December 2002 for Performance Measurement 35;
- the November and December 2002 raw data for Performance Measurement 37; and
- the November and December 2002 raw data for Performance Measurement 39.

145. Similarly, as Attachment 10 shows, SBC, on any number of occasions, has failed to provide its raw data in a timely manner. SBC's results for January 2003 were posted on the SBC website by February 20, and AT&T would expect to receive the raw data for those measures by the end of March 2003. However, SBC has sometimes taken months to provide the raw data pursuant to AT&T's standing request. For example, AT&T did not receive the raw data for SBC's February 2002 results for Performance Measure 5 until June 14, 2002. Similarly, AT&T did not receive the raw data for SBC's August 2002 results for Performance Measure 5 until January 9, 2003. Furthermore, AT&T did not receive SBC's raw data for SBC's October 2002 results for Performance Measure 5 until February 6, 2003. SBC also has failed to provide timely raw data for other performance measures, such as Performance Measures 28, 35, 37, and 39.

146. As its rebuttal to AT&T's argument regarding the untimeliness of the raw data that SBC provided for PM 9, SBC asserts that, although "AT&T appears dissatisfied with a turn-around time of "almost three weeks for raw data for PM 9 (Percent Rejects), that period is

within the 20 days envisioned by Michigan Bell's Performance Remedy Plan."[181] SBC's argument is nothing more than a red herring.

147. AT&T's request for PM 9 raw data was an *ad hoc* data request – a request which is outside the performance remedy plan. Indeed, on January 27, 2003, AT&T generally reminded SBC of the agreement it had reached regarding raw data requests, stating:

> Thank you very much for reviewing the MI remedy plan provisions for raw data requests. As you and Keith are new to performance measures, I am sure you were not aware of the agreement between SBC and AT&T not to use the regulatory practice for these requests, due to Ameritech's inability to provide raw data in the manner used by SWBT and PAC Bell. Since March, AT&T has had a standing request for raw data for fewer than 10 performance measures for March, with the agreement that ad hoc requests would be processed quickly.[182]

148. Moreover, AT&T also advised SBC that, if SBC no longer wished to abide by this agreement, SBC should consider AT&T's email as a standing request for the raw data underlying all performance measures "on a going-forward basis" pursuant to the terms of the performance remedy plan.[183] Notably, SBC has *not* elected to terminate its present agreement with AT&T. In view of this agreement, SBC cannot legitimately seek refuge in the performance remedy plan and assert that its provision of PM 9 raw data was timely.

149. In its opening comments, AT&T explained that: (1) the raw data that SBC provided on Performance Measure 39 contained incomplete trouble ticket disposition codes,

[181] SBC March 17 *ex parte*, Attach. A at 3.

[182] *See* Electronic message from Karen Moore to Becky Krost (SBC), dated January 27, 2003, attached as Attach. 11.

[183] *Id.*

thereby rendering it impossible to discern the basis for SBC's exclusion of trouble tickets from reported results; and (2) after AT&T's repeated requests for the raw data for this measure, including the full disposition code, SBC sent a raw data file on February 3 which contained far fewer records than the file that SBC transmitted for this same measure on January 22.[184]

150. In its reply comments, SBC contends that AT&T does not need the full disposition code to reconcile its data with SBC's.[185] In this regard, SBC insists that the two-digit code it provided to AT&T is the only relevant information that AT&T needs to conduct an analysis of the data. Furthermore, in its reply comments, SBC concedes that the PM 39 raw data files that it transmitted on February 3 "were smaller than the January 22 files because the first files contained all report categories, *i.e.*, both CLEC-originated and Michigan Bell-originated" trouble tickets.[186] SBC contends, however, that "[h]ad AT&T applied a few simple filters" to the data that it received on January 22, it could have easily determined that the counts by disposition code or report category did not vary from file to file."[187] SBC's arguments are meritless.

151. SBC is simply wrong when it asserts "that only the two-digit disposition codes provided to AT&T" are required for data reconciliation.[188] Indeed, SBC has a skewed and misguided view of the nature and scope of data reconciliation. SBC apparently believes that data reconciliation to determine the basis for the exclusion of transactions from PM 39 results should

[184] Moore/Connolly Decl., ¶ 149.

[185] Ehr Reply Aff., ¶ 128.

[186] *Id.*, ¶ 129.

[187] *Id.*

[188] *Id.*, ¶ 128.

be confined to: (1) an analysis as to whether the excluded trouble ticket contains disposition codes 11, 12 and 13 as the first two digits of the four-digit code, which are excludable in the business rules governing PM 39; and (2) a determination as to whether the tickets were, in fact, excluded from PM 39 results. SBC's analysis is fundamentally flawed in several important respects.

152. This Commission has determined that "the availability of raw performance data" is probative in assessing the reliability of performance data relied upon by a Section 271 applicant.[189] Similarly, as SBC has conceded, the MPSC has determined that "'raw data should be retained in sufficient detail so that a CLEC can reasonably reconcile the data captured by the ILEC (for the CLEC) with its own internal data.'"[190] The full disposition code is part of the raw data to which AT&T is entitled, and SBC should not be permitted to unilaterally limit AT&T's review of the raw data to comport with SBC's ill-conceived notions of the proper scope of data analysis.

153. Furthermore, analysis of the raw data based upon SBC's crabbed interpretation of the proper contours of data reconciliation would not reveal whether the tickets were properly coded in the first instance. For example, if SBC's raw data revealed only two-digit disposition code information, such as "Disposition Code 12," that code would simply mean that a trouble has been tested, identified or repaired on the customer side of a Network Interface Device. However, the provision of such a two-digit code would not provide complete and

[189] *Georgia/Louisiana 271 Order*, ¶ 19.

[190] Ehr Aff., ¶ 269 (citation omitted).

essential information that is necessary to determine whether the trouble ticket was accurately coded in the first instance and properly excluded from performance results.

154. In stark contrast, the full disposition code information might reveal that: a trouble ticket was closed to "1221" which means that the trouble was isolated to customer-provided equipment/cord sales or replacement; a trouble was closed to "1241" which means "Customer Not Home – Trouble to Customer Side of the Network Interface Device (NID) (DEMARC);" or a trouble was closed to "1251" which means that the customer cancels/ technician on premises; or a trouble was closed to "1282" which applies to trouble tickets where a retail customer requests a dispatch out on a Test OK and no trouble found on the Ameritech network. When AT&T receives the full disposition code, AT&T can examine its records and discern whether the trouble ticket was properly coded in the final instance and properly excluded from performance results.

155. Moreover, SBC's provision of a two-digit code would essentially force AT&T to "guess" the precise reason why the trouble ticket was excluded. In that connection, thousands of trouble tickets are generated each month. The provision of full disposition codes in the raw data facilitates AT&T's identification of trouble tickets that are clearly questionable. For example, Disposition Code 1372 means that a trouble report has resulted from a customer's error in using Ameritech customer calling features. If SBC's raw data for AT&T includes Disposition Code 1372, AT&T would immediately know that the coding was clearly wrong because an AT&T customer would not be using Ameritech customer calling features. AT&T could not discern these defects if the trouble ticket simply referenced Disposition Code 13.

156. Similarly, many disposition codes identified in SBC's Disposition Codes Loop Maintenance Operation System (LMOS) and WFAC, issued on November 7, 2002 (*e.g.* codes 1120, 1121, and 1130), are not currently being used but are reserved for future use. If SBC's raw data contains these disposition codes, AT&T would immediately know that there is a potential problem with the coding of its tickets. However, if SBC's raw data simply references "Disposition Code 11," instead of the full four-digit disposition code, AT&T could not immediately discern that the coding of its trouble tickets is highly suspect.

157. In all events, AT&T is entitled to the raw data, including the full disposition code, and SBC's assertion that the two-digit code constitutes the sum total of the information that AT&T requires is sheer nonsense. Most recently, notwithstanding AT&T's previous demands for the full disposition code in SBC's raw data, the January 2003 raw data that SBC provided to AT&T for Performance Measure 35 did not contain the full disposition codes.[191] SBC has since agreed to provide the raw data with full disposition codes in the future.[192]

158. In AT&T's comments regarding its attempt to reconcile SBC's PM 39 data, AT&T pointed out that there was a 9,000 ticket discrepancy between two sets of files for the same report period that SBC sent. As SBC's reply comments reveal, the larger file that SBC sent mistakenly included trouble reports created by SBC, rather than AT&T. SBC contends,

[191] Electronic message from Karen Moore to Keith Headen, dated March 19, 2003, attached as Attachment 12.

[192] Message from Ann Wescott to Karen Moore, Keith Headen dated March 20, 2003, attached as Attachment 13.

however, that by using a "simple" filter process, AT&T easily could have removed the erroneous trouble tickets from these files. SBC's arguments cannot withstand analysis.

159. In an e-mail dated February 7, 2003, SBC admitted that it had caused "confusion" by sending two different sets of raw data, one of which included trouble reports that were not initiated by AT&T.[193] In that email SBC explained the so-called "simple" filter process it used to exclude the trouble reports that SBC incorrectly included in the raw data it provided to AT&T.

> I have added this column to the report by applying the exclusions allowed for in the business rules: 1.) the report is not a CLEC report (use a custom filter on column T, Report_Category_Code, for report categories not equal to 1), 2.) those with a disposition > 11 (use a custom filter on column I, Disposition_Code, for disposition codes greater than 10) 3.) subsequent trouble reports (filter column Q, Subsequent_Report_Indicator equal to 1).[194]

160. Since AT&T does not have SBC's data dictionary that describes the information in the report fields, there is no way that AT&T could have known that any number other than one (1) means that it is a trouble report created by SBC. In all events, SBC is required to provide accurate raw data to AT&T. Moreover, SBC should not be permitted to shift its burden by providing inaccurate data to AT&T and then suggesting that AT&T should be responsible for sorting out and removing those portions of the raw data that are erroneous.

161. As its rejoinder to AT&T's arguments regarding SBC's failure to ensure the presence of network personnel during a scheduled data reconciliation meeting to discuss,

[193] Electronic message from Mary Shedlock to Karen Moore dated February 7, 2003, attached as Attachment 14.

inter alia, the disposition codes in AT&T's trouble tickets, SBC points out that, when AT&T initially requested a meeting to discuss these issues, it did not demand the presence of network subject matter experts.[195] Because AT&T advised SBC that it wanted to review trouble tickets and the basis for the assigned disposition codes, AT&T logically and reasonably assumed that SBC would have knowledgeable subject matter experts present during the meeting who could provide meaningful information regarding the basis for SBC's coding of AT&T's trouble tickets. To remove any doubt regarding its expectations, AT&T, two days before the meeting, notified SBC that it expected to discuss these issues with SBC's network personnel during the meeting.[196] SBC's failure to have network personnel present at the convened data reconciliation meeting underscores SBC's cavalier attitude about the data reconciliation process.

162. SBC contends that, a day before a separate conference call to discuss the coding of trouble tickets under PM 39, "AT&T notified Michigan Bell that it wanted to review December 2002 performance data, rather than data from earlier months as had been discussed earlier."[197] SBC also contends that "[b]ecause AT&T expected Michigan Bell Network SMEs to be prepared to address the specific trouble tickets, the meeting had to be rescheduled to allow the SMEs time to review the new information."[198] SBC's analysis is incomplete and misleading.

(footnote continued from previous page)
[194] *Id.*

[195] SBC March 17 *ex parte*, Attach. A at 3-4.

[196] *See* Electronic message from Karen Moore to Keith Headen dated February 17, 2003, attached as Attachment 15.

[197] SBC March 17 *ex parte*, Attach. A at 4.

[198] *Id.*

163. In an email dated February 26, 2003, SBC stated that, in order to meet AT&T's "needs and objectives, the SBC Midwest Network team would like to know specifically" what AT&T's "objectives" and "desired outcomes" are with respect to the upcoming discussions regarding coding of its tickets.[199] Before AT&T could respond, AT&T received another email from SBC in which SBC stated that it wanted to conduct the PM 39 data reconciliation "disposition code by disposition code."[200]

164. In response, AT&T stated that, pursuant to its discussion with Kate Ewing of SBC, AT&T wanted to reconcile disposition codes 525 and 526 for October 2002.[201] Later, Keith Headen of SBC advised Ms. Moore that SBC's Network Subject Matter Experts ("SMEs") would need at least a week to review October data. Given the amount of time SBC requested to review October data, AT&T suggested that the parties review December data because the December results were the most current results and presumably the data with which Network SMEs were most familiar. Thus, AT&T's request for a review of December data was triggered only because of SBC's claim that a full week would be needed for its Network SMEs to analyze October 2002 data.

[199] Electronic message from Keith Headen to Karen Moore, dated February 26, 2003, attached as Attachment 16.

[200] Electronic message from Keith Headen to Karen Moore, dated February 26, 2002, attached as Attachment 17.

[201] Electronic message from Karen Moore to Keith Headen dated February 28, 2003, attached as Attachment 18.

CONCLUSION

Based upon the pool of evidence, there is no sound basis for a finding that SBC's performance data are reliable and show statutory compliance. SBC simply has not met and cannot meet its burden of proof on this issue. It is imperative that the Commission assure that SBC's performance data are accurate and verifiable and reflect its actual performance *before* SBC receives interLATA authorization under Section 271. The plain terms of the Act require no less. It is particularly important that the Commission take such action now because a BOC, such as SBC, after obtaining Section 271 approval, has powerful incentives and an even greater ability to alter and conceal its actual performance to defeat the effectiveness of any performance monitoring and enforcement mechanisms.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

/s/ Karen W. Moore
Karen W. Moore

Executed on March 26, 2003

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

/s/ Timothy M. Connolly
Timothy M. Connolly

Executed on March 26, 2003